(15,975, 15,976, 15,977.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

C. J. Smyth No. 685. 372 49.

ARTHUR S. CHURCHILL, ATTORNEY GENERAL; JOEL A. PIPER, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER, AND HENRY C. RUSSELL, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, OF THE STATE OF NEBRASKA, CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA, ET AL., APPELLANTS,

vs.

OLIVER AMES, OAKES AMES, FRANK M. AMES, ET AL.

C. J. Smyth No. 686. 372 50.

ARTHUR S. CHURCHILL ET AL., CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA, ET AL., APPELLANTS,

vs.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, ET AL.

C. J. Smyth No. 687. 372 51.

ARTHUR S. CHURCHILL ET AL., CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA, ET AL., APPELLANTS,

vs.

HENRY L. HIGGINSON, ROBERT H. GARDNER, WILLIAM C. WELLS, ET AL.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEBRASKA.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JANUARY 27, 1896.

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	Original.	Print.
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a United States Circuit Court of Appeals, Eighth Circuit.
May Term, 1895.

George H. Hastings, Attorney General, et al, Appellants,
No. 590. vs.
Oliver Ames et al, Appellees.

George H. Hastings, Attorney General et al, Appellants,
No. 591. vs.
George Smith et al, Appellees.

George H. Hastings, Attorney General et al, Appellants,
No. 592. vs.
Henry L. Higginson et al, Appellees.

Appeal From the Circuit Court of the United States for the District of Nebraska.

It is hereby stipulated and agreed by and between the parties hereto that in printing the records for hearing in these cases, the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit shall print only the decree, assignment of errors, petition for appeal, bond on appeal, order allowing appeal and citation, in each of said cases and shall have the portions so printed inserted after the volume of pleadings printed for use in the Circuit Court and furnished the Clerk of this court in each of said cases and that the volumes so prepared shall be bound under one cover bearing the title of the three cases.

It is further stipulated that the volume of testimony marked "Nebraska Maximum Freight Rate Cases—Copy of the evidence", shall be left in a volume to itself, but the Clerk is hereby directed to have prepared a title page therefor with the title of the three cases thereon, and the said volume shall be used with the same force and effect as if a copy of same was incorporated in each record.

It is further stipulated and agreed that no other portions of the records in these cases shall be printed, and that the cases shall be heard and submitted to the Court on the record so prepared as aforesaid.

JNO. L. WEBSTER,
Sol. for Appellants.
J. M. WOOLWORTH,
Sol. for Appellee.

Subject to following conditions:

So far as I am concerned, the above is subject to this condition: That Mr. Jordan compares the copies furnished him by Mr. Webster with those sent up by the Clerk of the Circuit Court and makes sure that those he sends me and hands up to the Court are correct. And my copies must be sent me at once. If they are delayed I cannot get ready and the cases will have to go over to the next term in which case the usual course may as well be taken and the above stipulation will be of no use.

J. M. WOOLWORTH.

590. Geo. H. Hastings, Atty. Gen'l et al, Appellants, vs. Oliver Ames et al. 591. George H. Hastings, Attorney General et al Appellants, vs. George Smith et al. George H. Hastings, Attorney General et al, Appellants, vs. Henry L. Higginson et al. Stipulation as to printing. Filed May 10, 1895. John D. Jordan, Clerk.

United States Circuit Court

DISTRICT FOR NEBRASKA.

OLIVER AMES; OAKES AMES; FRANK M. AMES; WILLIAM POWELL; MASON E. PIERSON BERBE; CHARLES J. MERRILL; CHARLES F. CHOATE,

Complainants,

vs.

UNION PACIFIC RAILWAY COMPANY; THE ST. JOSEPH AND GRAND ISLAND RAILROAD COMPANY; THE OMAHA & REPUBLICAN VALLEY RAILROAD COMPANY; THE KANSAS CITY & OMAHA RAILROAD COMPANY; GEO. H. HASTINGS, ATTORNEY GENERAL; JOHN C. ALLEN, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER, AND A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, OFFICERS OF THE STATE OF NEBRASKA; WILLIAM A. DILWORTH, J. M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD,

Defendants.

COPY OF PLEADINGS.

App. Doc. Q. No. 59.

United States Circuit Court

DISTRICT FOR NEBRASKA.

Oliver Ames; Oakes Ames; Frank M. Ames; William Powell; Mason E. Pierson Beebe; Charles J. Merrill; Charles F. Choate,

Complainants.

vs.

Union Pacific Railway Company; The St. Joseph and Grand Island Railroad Company; The Omaha & Republican Valley Railroad Company; The Kansas City & Omaha Railroad Company; Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, Officers of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board,

Defendants.

COPY OF PLEADINGS.

I.

By the act of Congress entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the government the use of the same for postal, military and other purposes, approved July 1st, 1862, the Union Pacific Railroad Company, was incorporated to build, and in 1869 it had built and completed its railroad from Omaha to Ogden, in Utah.

In January, 1880, the said company, by due proceedings in that behalf, became consolidated with the Kansas Pacific Railway Company, and the Denver Pacific Railway and Telegraph Company under the corporate name of the Union Pacific Railway Company, and hereinafter for convenience it is styled the Union Pacific Company. Hereto annexed is a map marked Exhibit "A" and made a part hereof, showing the lines of said company. The said defendant, the St. Joseph & Grand Island Railroad Company, was organized under the laws of the states of Kansas and Nebraska, to acquire and it did acquire a railroad running from St. Joseph in Missouri, to Grand Island, in this state, and a majority of the stock of that company is owned and held by the said Union Pacific Company, and its road is operated and its affairs administered by that company. The said defendant, the Kansas City & Omaha Railroad Company, was also organized under the laws of the State of

Nebraska to build, and it has built certain branch lines of said St. Joseph & Grand Island Railroad; the Union Pacific Company owns and holds a large proportion of its stock and bonds and controls the policy of its operation and directs its management. In 1880 the Union Pacific company caused the Omaha & Republican Valley Railroad Company to be organized under the laws of Nebraska for the purpose of building subsidiary lines in its name. Accordingly, except the main line from Omaha to Ogden and the St. Joseph & Grand Island road, the said Union Pacific Company built the roads in this state delineated on the said map and marked as "Union Pacific Roads," in the name of said Republican Valley Company, but the said Union Pacific Company owns and holds all the stock and bonds of said Republican Valley Company, and operates said roads for itself and its own interests, and by its own directors, officers and agents, but for convenience merely in the name of the said Republican Valley Company. All of said roads form one system.

II.

Your orators are and for six months and more last past have been stockholders of said Union Pacific company, and as such, during that time, they have been holders and are duly registered in the public registry of said company's stock as holders of 5,520 shares. The whole of the company's stock is distributed among and held by more than ten thousand per-

sons and parties, for which reason it is impracticable to implead all of them in the complaint to your honors, and your orators are compelled to and do exhibit this their bill in behalf, not only of themselves, but on behalf of all other stockholders of said company.

III.

The individual defendants in this bill of your orators are, and for six months have been, officers of the State of Nebraska; that is to say, the said Hastings is Attorney General, the said Allen is Secretary of State, the said Moore is Auditor of Public Accounts, the said Bartley is Treasurer, the said Humphrey is Commissioner of Public Lands and Buildings, and as such officers they constitute the Board of Transportation, under and by virtue of the act of the legislature, entitled "An Act to regulate railroads, prevent unjust discriminations, provide for a Board of Transportation and define its duties, and repeal Articles 5 and 8 of Chapter 72, entitled Railroads, of the Revised Statutes, and all acts and parts of acts in conflict therewith, passed at the twentieth session. William A. Dilworth, J. M. Kountz, J. W. Johnson are, and during the period aforesaid have been secretaries of said board. And the said defendants pretend and allege that at its last session the legislature passed, and on the 12th of April last past the governor approved, an act entitled "An act to regulate railroads to classify freights, to fix reasonable maximum rates to be

charged for the transportation of freights upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act;" and the said board and the members thereof have threatened that they will, and, unless restrained by the order and injunction of this Court, they will put in action its full powers, under the two acts above entitled, of inquiry, examination and determination against said defendant companies, and will require them to make, keep, publish and post, so as to be conveniently inspected, in every one of their depots and stations, schedules showing the rates and charges for the transportation of passengers and property, and the places upon their roads upon which the same will be carried, and the classification of freight, together with the terminal charges, and will entertain, hear and determine whatever complaints may be made to it by any and all persons and parties alleging the violation by said companies of any and every the commands injunctions and prohibitions in the said two several acts above entitled contained, or neglect on their part to obey and observe the same, and upon such complaints will order and require said companies to comply with the provisions of the act secondly above entitled, which for convenience is hereinafter called House Roll 33, particularly by classifying freight to be carried on such roads, and reducing the rates of charge for the transportation thereof, as in the said act provided, and make, publish and post schedules of such rates and charges conformable to said act, and will, upon each and every such order and requirement of said board, apply to one of the courts

of said state for an order of injunction or other process, mandatory or otherwise, to restrain said companies from further continuing the violation or disobedience of its said order or requirement, and enjoining obedience of the same, and for writs of attachment, and other process out of said court against said companies, their directors, officers or agents, to the end that such company, director, officer or agent be fined as in the act first above entitled provided, and will order the Attorney General or the county attorneys of the counties through which said roads, or any of them, may run, to institute a suit or suits to compel said companies to comply with its said order, and also apply to the Supreme Court or such District Court, in the name of the state, on relation of said board, for a writ of mandamus against said companies to compel obedience to the order of the said board. And the said board will also require the said attorney general, and the county attorneys of the counties through which the said roads or any of them run, and prosecute the said companies for each and every act done or omitted by it, commanded or forbidden by the said act, and seek to impose upon said company the severe penalties prescribed in said House Roll 33, and enforce the same against the property of said companies; which actions, proceedings and indictments will be very numerous, and if they shall be effectively prosecuted they will sweep away all of the property of said companies.

The said attorney general has given notice that it is his purpose, and the purpose of said board, to enforce the said House Roll 33 promptly, vigorously and to the full ex-

tent of the powers conferred upon him, and the said board in that behalf by each and every of the proceedings mentioned and prescribed by tho two acts above entitled, against any and every railroad company in this state, which shall in anywise do or omit what in the said acts, or either of them, is commanded or forbidden; and, personally to take charge of such proceedings and prosecute them to the full extent of the law, and so he will do unless restrained by the order and injunction of your Honor, as hereinafter prayed.

IV.

For many years last past the earnings of the roads of the Union Pacific Company have not been sufficient to more than pay their operating expenses and fixed charges, and your orators and all others stockholders of said company have not in any way received from said company dividend, or other returns upon their stock; except the main road from Omaha to Ogden none of the roads of said company in this state have for years past earned their operating expenses and fixed charges, nor has that road earned more than what will cover such expenses and charges; if it were detached from all other roads of the company its earnings would not be sufficient to yield to its stockholders more than two per cent after paying operating expenses and fixed charges.

V.

By the said House Roll 33 rates of charges are prescribed for transporting divers articles which rates are less than the average cost to which the said company will be subject in rendering such service; some of which are the following:

Those included in class "D" and also "E" of said classification, also wheat flour, millet and flax seed, grains and mill stuffs, lumber, and all kinds of coal, that is to say, hard and soft, lump and nut, pea and slack, when the said articles are to be carried for a considerable distance, also all articles which are to be carried in small packages for short distances. On packages of merchandise of twenty-five pounds weight carried five miles, the rates of charge under said House Roll 33 are as follows: First class, 3¼ cents; second class, 2¾ cents; fourth class, 1¾ cents. If carried twenty-five miles the rates are for first class, 4¼ cents; second class, 3¼ cents; third class, 2.95 cents; fourth class, 2.45 cents. The same is true of all rates upon small packages carried short distances. The rates of charge prescribed by said act for transportation of divers articles are no less for a shorter than a certain distance. The said rate on lumber, lath, shingles, doors, sash and blinds for 85 miles is 8 cents per hundred pounds, for 90, 95, 100 and 105 miles, 6 cents; for 110 to 115 miles, 6¼ cents; for 120 miles, 7 cents; for 125 miles, 7½ cents; for 130 miles, 8 cents.

Your orators submit that while the company having regard to circumstances may carry an article for less

than cost to it of such service and a fair profit, yet the legislature cannot compel it to do so, that being the taking of the company's property for public use without returning compensation therefor and without due process of law, and it being practically impossible for the legislature to assure the company profits on some other service which will answer the deficiency.

VI.

The unreasonableness of the rates fixed by House Roll 33 appears, from a comparison of them with those allowed by law to companies similarly situated in other states. Hereto annexed is a table showing this comparison marked Exhibit "B" and made a part hereof.

VII.

The said House Roll 33 not only fixes and establishes rates of charge for the transportation of freight, which are in the first instance absolute and arbitrary, but it excludes every mode of inquiry into their unreasonableness. The classification of freight is expressly made permanent save as it may be revised by the board of transportation at its pleasure, without hearing or opportunity for complaint by said company. The rates apportioned upon said classification, while they may be the subject of imperfect and preliminary inquiry are not as to their reasonableness matter of determination and judgment in

or by the Supreme Court, and it is only empowered to return the same to said board for its discretionary action, which action is without hearing the said company, and without having before it, evidence pertinent to the matter, and with power limited to raising the rates not above those charged on the first of January last past. And the several provisions, clauses and terms of said act are skillfully framed so as to forbid a reduction of rates except as hereinbefore set forth. And while said company is subjected to actions by parties who allege themselves to be injured by the non-observance by said company of the provisions of said act, and to indictment and heavy and unreasonable penalties on that account, all defenses on the ground that the rates charged by said company are just and reasonable, although not conformable to those prescribed by said act, are by its terms wholly excluded and denied to said company. But for said act in an orderly litigation, either in an action for damages or in an indictment against said company, if opportunity were offered, it could submit in its defense evidence tending to show that the rates charged by it in excess of those fixed in said act were just and reasonable, and thereby defend itself against complaint for violation of said act. In said state to every person and party, save and except the said company, and the other common carriers of like character, justice is dispensed in the courts of law freely, and without denial or delay in pursuance of the fundamental principles of English and American institutions, and of the constitution, and especially in an action or indictment such as

those mentioned above, he will be heard to allege in his defense such matters as are in the said act denied to said company and other like carriers. Wherefore your orators submit that the said alleged act denies to said companies and your orators and others, its stockholders, the equal protection of the laws and deprives them of their property without due process of law, and is repugnant to the constitution of the United States and is therefore null and void.

VIII.

The Chicago, Rock Island & Pacific Railway Company is, and for over twenty years has been, a corporation organized and existing under the laws of the states of Illinois and Iowa, owning and operating a railroad line from Chicago, in Illinois, to Council Bluffs in Iowa, claiming that by due proceedings in that behalf under and by virtue of the laws of this state it had become a domestic corporation thereof between the first day of January, 1889, to the first day of January, 1891, it acquired the right to run its trains over the The Union Pacific Railway Company's bridge and road from Council Bluffs to South Omaha in this state, and has built a railroad from South Omaha by way of Lincoln to Denver in Colorado, save that for two short distances it has acquired the right to run its trains, cars and engines over the tracks of other companies. The said Rock Island Company is in close active competition with that of said defendant railway companies, and other companies having many common points,

and all said roads serve the same communities and seek from them and do for them the same business and their facilities to do such business and their ability to secure the same are substantially equal. Nor in any of the circumstances and conditions of the said company, is there good reason of which the state or its authorities, can take cognizance, for any discrimination between them, and whatever rate of freight is fixed and prescribed for one should be enforced against the other. In and by the provisions of the alleged act above entitled the legislative authority of the State of Nebraska has attempted to fix maximum rates, which the said defendant company and other raidroad companies may and shall charge for the transportation of freight, whereas in the fourth section of said alleged act it is provided as follows: "All railroads or parts thereof which may have been built in this state since the first day of January, 1889, or may be built before the 31st day of December, 1898, shall be exempt from the provisions of this act until the 31st day of December, 1899;" which provision was inserted and incorporated in the said alleged act for the express purpose of exempting the said Rock Island company from the operation of its provisions, its name being suppressed in order to conceal the injustice of the discrimination in its behalf thereby secured. Under the said alleged act the said Rock Island company can, but the defendant company and said other companies cannot, charge and receive compensatory rates for the transportation of freight on their respective lines, if the said act be valid and constitutional, and by the

discrimination in the same in favor of the former, and against the latter, without just reason the said defendant company and your orators and all others its stockholders, will be deprived of the equal protection of the laws.

IX.

By the terms of the act first above entitled, it was enacted that whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States after deducting all expenditures, including repairs and the furnishing, running and managing of said road shall exceed ten per cent upon its cost, exclusive of the five per cent to be paid to the United States, congress may reduce the rates of fare thereon if unreasonable in amount, and may fix and establish the same by law, whereby a contract was entered into between said company and the United States, that until the time in that behalf in the said act, the said company should not be subject to such legislation as hereinbefore complained of; that the net earnings of said road and telegraph have never equaled ten per cent upon its cost, exclusive of the five per cent reserved for the United States, nor have the rates been unreasonable.

X.

All of the roads of the said Union Pacific Company are operated together as one connected continuous line, upon regulations, tariffs of rates and schedules of trains, time and speed common to all, without regard to state boundaries and without change of gauge of track or stoppage or interruption, and the carriage from points on one road to points on another, is treated as one continuous carriage from place of shipment to destination, and traffic originating in one state and destined to another, and traffic beginning and ending in the same state, are conducted in the same trains and cars without differences or discrimination. The rates of charges prescribed by said House Roll 33 are one-fifth less than those heretofore, and now charged by said company for the same service, so that by the reduction of rates the citizens desiring carriage for his property in the interior of the state to a point beyond, is invited to and will ship the same on the company's lines to a point on the Missouri River, and thence re-ship the same to destination on some one of the roads connecting with the Union Pacific railroad to destination. And the same mode of business will be followed upon shipments into this state from the east. The intimate and necessary relations of interstate and local traffic and of the rates of charges thereon, are demonstrated by the methods of those charged with making such rates, when not acting under the constraint of arbitrary rules, such as are prescribed by House Roll 33. Such

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officers of the defendant company do not, and never have acted upon the consideration of one of these two classes taken by itself, but they have always acted upon the consideration of all the conditions of both, and what is true of them is true of the same officers of all other great interstate systems. And your orators submit that forasmuch as the constitution of the United States has committed to congress the power to regulate commerce among the states, thereby withdrawing the same from every degree of interference on the part of the states, the said company in and by virtue of its character as an interstate carrier, is not subject to the jurisdiction of the State of Nebraska; and its business, both that which begins and ends within the state, and that which begins in one state and ends in another, the two classes being intimately related and connected together, is in its whole compass, and in all its diversities, beyond and outside of the power of said state to regulate, or in anywise interfere therewith and that the said House Roll 33 is for that reason repugnant to the said constitution and is null and void.

XI.

The bill for the said alleged act was on the 4th of January, 1893, introduced into the House of Representatives of the legislature at its last session, and was the subject of consideration, amendment and action upon several days, and on the 11th of March was declared passed, but the same was not read at large in that house on three different days, but

was put upon its passage without being so read. But in e
grossing the said bill, divers radical changes were made
the said bill, without the action or knowledge of the sa
house, which erroneously engrossed bill was transmitted
the senate, in which body the same was the subject of co
sideration, amendment and action, but was not read at lar
on three different days, and was put upon its passage wit
out being so read, the protest, oral and written, then a
there made by several senators to the contrary notwithstan
ing. Being returned to the said house it was then enrolle
and the enrolled bill, in many radical particulars differe
from that passed by the two houses, in which form it wa
signed by the governor, so that it happened that the bi
passed by the two houses was never signed by him, and tha
signed by him never passed the two houses.

XII.

The alleged act of the legislature of Nebraska firs
above entitled, was in its frame, terms, provisions and pur
pose amendatory of the act entitled "An act to regulate rai
roads, prevent unjust discrimination, provide for a board o
transportation and define its duties, and repeal articles 5 an
6, of chapter 72, entitled railroads, of the revised statutes
and all acts and parts of acts in conflict therewith, approve
March, 1887", yet the act first in this paragraph mentione
does not contain the sections of the act secondly mentione
so amended, nor repeal those so amended in disregard of th

provisions of the constitution of this state, and by reason thereof the same is void.

XIII.

The said House Roll 33 denies to the said company, the right to be heard in the courts of said state upon a question of the reasonableness of the rates of charge therein prescribed, either when the same are originally established, or afterwards nor in its defense therein in an action against it for damages alleged by a party on account of a greater charge made by it, nor of an indictment against it therefor; and at the same time imposes upon the supreme court the administrative function of a preliminary inquiry whether the board of transportation may at its option increase the schedule of rates to a certain extent; and on the other hand commits to the said board of executive officers, the judicial question of the reasonableness of the rates fixed by the said act, all which confusion of the powers and functions of the judicial and executive departments of the government, is repugnant to the constitution, and the provisions thereof "that no person or collection of persons being of one of these departments shall exercise any powers belonging to either of the others" and is for that reason null and void.

XIV.

On the 3d day of July instant, and as soon as you orators learned the nature of House Roll 33 they addressed t S. H. H. Clark, who is the president of the company, a lette signed by them in the words and figures following, that i to say:

Boston, July 3d, 1893:—S. H. H. Clark, Esq., Presi dent Union Pacific Railway Company—Ames Building Boston:—Sir: The undersigned, creditors and stockholder of our company hereby call your attention to an act lately passed by the legislature of Nebraska, attempting to fi maximum rates to be charged by railroad companies in tha state for transportation of freight. We are informed, and confidently believe that the result will be the reduction o the earnings of the roads below the point at which thei operating expenses, fixed charges and a reasonable return to their stockholders can be realized. We call your atten tion to several grave objections to this enactment:

1st. The provisions of the constitution of the State o Nebraska were not observed in the proceedings in the legis lature while the bill was under consideration, by reason o the fact that the same was not read on three successive days in each of the two houses, and the bill as voted upon by the houses, radically differs from that signed by the governor.

2d. The bill is obnoxious to the constitutional objec tions in that it does not provide for judicial inquiry into the reasonableness of the charges therein provided for.

3d. The charges prescribed in the act are not just and reasonable, and are unequal as between the different localities on the line of the roads.

4th. That the statute discriminates between the different railroad companies in the state in such a manner, that one of the great lines of railroad, the Rock Island line, is not subject to the new rates. Other objections in the same line as those mentioned above, may be urged against the validity of this legislation, but those mentioned justify us, as stockholders of the company, in insisting that the directors should take some measures, effectually to protect our interests in the company against the operations of the statute. We insist to you and the board of directors that the company shall decline to put the rates in operation and by proper legal proceedings test the validity of the statute in the courts. Your attention is called to the fact that the statute takes effect on the first of August next. It is, therefore, of the utmost importance that your board take action upon the matter of this communication at the earliest practicable moment. The powers of the board of directors of said Union Pacific Company are vested in its executive committee. At a meeting of said committee held on the —— day of July instant, the above letter was presented and read and thereupon the requests therein refused without assigning any reason therefor, the said company, its board of directors and executive committee and officers and agents refused to exercise their judgment in the exigency and therefore are grossly derelict in their duty. This bill is not exhibited before your Honors by collusion with

the said company or its officers or directors for the purpose of giving jurisdiction to this Court of the questions herein by your orators raised, or which may be raised upon the said act. It has not been practicable for your orators to solicit and secure the co-operation of others stockholders of the company in application to the board of directors in exhibiting this bill, in consequence of the necessity of immediate action in that behalf, and your orators pray that others may be admitted parties hereto as stockholders of the company if they desire to do so, they paying and undertaking to pay their share of the expenses of this suit. And your orators well hoped that the said defendants would not interfere with the business of said company or property under the pretense that the said alleged act was binding upon any of them, but they refuse so to do. All which actings, doings, refusals and pretenses are contrary to equity and good conscience, and tend to the manifest wrong, injury and oppression of your orators, and all others stockholders of your orator in the premises. But now it is, may it please your Honors, the said defendants conspiring and confederating together, and with divers others, to your orator unknown, whose names when discovered it prays may be herein inserted, as defendants refuse so to do. To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief therein prayed, and that they answer this your orators bill according to the course and practice of the Court, but not under oath, the answer of each of them under oath being hereby expressly waived, and that by the order and injunction of your Honors

the said defendants be enjoined from making or publishing a schedule of rates to be charged by said defendant company for transportation of freight on and over their roads in Nebraska from one point to another therein, whereby such rates shall be reduced to those prescribed by said House Roll 33, from those now charged by it or in any wise, obeying, observing or conforming to the provisions, commands injunctions and prohibitions of said alleged act, and that the said board of transportation be in like manner enjoined from entertaining, hearing or determining any complaints to it against said company, for or on account of any act or thing by said company its officers, agents, servants or employees done, suffered or omitted, which may be forbidden or commanded by said alleged act and from instituting or prosecuting or causing to be instituted or prosecuted, any action or proceeding civil or criminal against said company for any act or thing by it or its officers, agents, servants or employees done, suffered or omitted, which may be forbidden or commanded by said act, particularly for not reducing its present rates of charges for transportation of freight to those prescribed in said act; and that the said attorney general be in like manner enjoined from bringing, aiding in bringing, or causing to be brought, any proceeding by way of injunction, mandamus, civil action or indictment against said company, for or on account of any action or omission on their part commanded or forbidden by said House Roll 33, and should any county attorney threaten to bring, or should he bring any such action or proceeding, then and

in that case his name be inserted in this bill as defendant, and he be at once in like manner enjoined from instituting or prosecuting, or causing to be instituted or prosecuted such action or proceedings.

And that it be by the decree of your Honors declared, that the alleged act above entitled is repugnant to the provisions of the constitution of the United States, for the reasons in that behalf hereinbefore assigned by your orators, and that the proceedings of the legislature of this state in the passage of said act, were contrary to the constitution of said state, and were ineffectual to pass or enact the said Roll as a law. And that it be decreed that the injunction hereinbefore prayed be perpetual, and that your orators have their costs of this their bill and all such other and further relief as the circumstances require, and is agreeable to equity and good conscience.

May it please your Honors to grant unto your orators, sueing as well on their own behalf as on behalf of all other stockholders of the Union Pacific Railway Company, not only the writ of injunction issuing out of and under the seal of this Honorable Court, directed to the defendants, the Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, and the Kansas City & Omaha Railroad Company, and the Omaha & Republican Valley Railway Company, their officers, agents, servants and employees, George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and A. R.

Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation, commanding and enjoining them and their secretaries, deputies, clerks and servants as hereinbefore prayed, but also a writ of subpœna issuing in like manner and directed to the said defendants commanding them that at a day therein to be inserted they appear before your Honors in this Honorable Court, then and there to answer the premises, stand to, perform and abide such order and decree as to your Honors shall seem meet and equitable, and your orators will ever pray, etc.

J. M. WOOLWORTH,
Solicitor for Plaintiffs and of Counsel.

DISTRICT OF NEBRASKA—ss.

J. M. Woolworth being duly sworn says he is the solicitor of the plaintiffs in the above bill; that he has read the same and knows the contents thereof and the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true, said plaintiffs are absent from this district.

[Signed] J. M. WOOLWORTH.

Subscribed and sworn to before me this 28th day of July, 1893.

FANNY M. PRATT,
[Seal.] Notary Public.

Exhibit "B".

Distance in Miles	Name of Distance Tariff	Class 1	Class 2	Class 3	Class 4	Class 5	Class A	Class B	Class C	Class D	Class E	Wheat, Flour and Flax Seed	Other Grain and Mill Stuff	Lumber	Salt, Lime and Cement	Horses and Mules	Cattle and Calves	Hogs	Sheep	Coal, Hard Per ton	Coal, Soft Lump, Per ton	Coal, Soft Pea, Per ton
5	Wisconsin	9	8	7	6	4	4	3.5	3	3	3	3.5	3.5	3	3	3.3	3	3.75	3.75	...	35	35
	Minnesota	12	10	8	6	5	5	4	4	3	2	3.50-4	3.5	3	....	3.3	3	3	3	...	...	...
	Dakota	12	10	8	6	5	5	4	3.5	3	2.5	5.5	5	4	3	5.5	5	6	6	...	...	...
	Kansas	13	11	9	7	6	6	5	4	4	3	5	4	4.5	4⅓	10.00	9.00	9.00	6.00	...	60	60
	Newberry Rates	13	11	9	7	5	5	4	3	3	2	4	4	4	3	10.75	9.75	8.5	8.4	60	30	25
50	Wisconsin	30	25	20	15	11.8	11.8	9	7.5	6.5	6	10	10	7.5	7	11.00	10	12.3	12.3	...	...	...
	Minnesota	30	25	20	15	12	12	11	9	8	6	10.10	10	8	....	11	10	10	10	...	...	...
	Dakota	32	27	21	16	13	13	11	10	9	6	9-10.5	9	8.5	10	12.65	11.5	13	13.5	...	...	...
	Kansas	32	29	25	21	15	15	11	9	7	5.5	8	6.5	8	11	22.00	18.00	18.00	15.00	...	115	115
	Newberry Rates	24	19	14.5	12	10	10	8	7	6	3.5	7	7	7	5.5	17.5	16.5	13	12	96	66	52
100	Wisconsin	40	33	27	20	16	16	14	12	10	8.6	12.5	12.5	12	10.6	16.5	15	18.5	18.5	...	...	...
	Minnesota	40	33	27	20	16	16	14	12	10	8	12.5-15	12.5	13	....	16.5	15	15	15 *	...	...	...
	Dakota	42	36	27	21	17	17	15	13	11	8	13-15.5	13	13.5	15	18.15	16.5	18.5	19.5	...	...	...
	Kansas	52	44	38	31	27	24	16	14	10	7.5	10½	8½	13	15⅓	33.00	27.00	27.00	20.00	...	150	150
	Newberry Rates	29	25	21	20	16	16	11	9	7	6	10.5	9	6	9	25	21.5	18	16	136	100	74
150	Wisconsin	50	42	33	25	20	20	17.5	15	12.5	10.4	15	15	14.5	13	19.25	17.5	21.7	21.7	...	...	...
	Minnesota	50	42	33	25	20	20	18	15	13	10	15-18	15	15.5	13	19.25	19.5	17.5	17.5	...	...	...
	Dakota	57	48	37	29	23	23	20	17	14	11	16-18.5	16	16	18	20.9	19	21.6	22.5	...	...	...
	Kansas	63	55	49	40	35	29	21	19	13	10.5	14	12	16	20½	41.00	36.00	36.00	25.00	...	215	215
	Newberry Rates	41	36	32	24	22	23	14	13	9	6.5	13	11	9	12	30	25.5	21	19 00	170	115	89
200	Wisconsin	60	50	40	30	24	24	20	17	15	12.5	17.5	17.5	17	15.3	22	20	25	25	...	...	...
	Minnesota	60	50	40	30	24	24	21	18	15	12	17.5-20.5	17.5	18	15.3	22	20	20	20	...	...	...
	Dakota	72	61	47	36	29	29	25	22	18	14	18.5-21	18.5	18.5	22	23.65	21.5	24.6	25.5	...	...	...
	Kansas	73	65	58	46	41	34	26	22	16	12	15¼	13¼	19	23	47.00	41.00	41.00	30.00	...	...	...
	Newberry Rates	55	48	43	36	31	29	20	17	12	8	14	13	11	13	35	29.6	24.00	22	200	130	104
250	Wisconsin	68	57	45	34	27	27	22.5	19.5	16.8	14	18.7	18.7	18.7	16.8	24.75	22.5	28	28	...	...	...
	Minnesota	68	57	45	34	27	27	22.5	19.5	16.8	14	18.7	18.7	18.7	16.8	24.75	22.5	28	28	...	...	...
	Dakota	82	70	53	41	33	33	29	25	21	16	21-23.5	21	21	25	26.4	24	27.5	28.5	...	...	...
	Kansas	78	70	63	51	46	39	31	25	18	13.5	16	14	21	24⅔	49.50	43.50	43.50	31.00	...	280	280
	Newberry Rates	58.5	53	47	41	35	30.5	22.5	18.5	13.5	10	14.5	13.5	14.5	15.5	38.75	34	28	23.9	220	140	114
300	Wisconsin	75	63	50	38	30	30	25	22	19	15	20	30	20	18.7	27.5	25	31.2	31.2	...	...	...
	Minnesota	75	63	50	38	30	30	26	23	19	15	20-23	20	23	18.7	27.5	25	25	25	...	...	...
	Dakota	92	78	60	46	37	37	32	28	23	18	23-25.5	23	23.5	27	29.15	26.5	30	31	...	...	...
	Kansas	83	75	68	56	51	44	34	27	21	16	16½	14½	22	27	51.50	46.00	46.00	32.00	...	325	325
	Newberry Rates	62	57	52	46	39	32	26	20	15	12	16	14	17	18	42.5	38.5	32	25.9	240	150	124
350	Wisconsin	83	69	55	41.5	33	33	27.5	24.3	20.5	16.3	21.3	21.3	21.5	20.5	30.25	27.5	34.3	34.3	...	...	...
	Minnesota	83	69	55	41.5	33	33	27.5	24.3	20.5	16.3	21.3	21.3	21.5	20.5	30.25	27.5	34.3	34.3	...	...	...
	Dakota	102	87	66	51	41	41	36	31	26	20	24-26.5	24	25.5	30	31.9	29	32.5	33.5	...	...	...
	Kansas	88	80	73	61	56	49	36.5	30	23	19	17¾	15¾	23	32	60.50	48.50	48.50	34.00	...	380	380
	Newberry Rates	69	62	57.5	51	40	35	29	23	17.5	13.5	17	15	19.5	20.5	46	41	34.5	28.3	260	160	129
400	Wisconsin	90	75	59	45	36	36	30	26	22.6	17.6	22.5	22.5	24	22.6	33	36	37.5	37.5	...	...	...
	Minnesota	90	75	60	45	36	36	32	27	23	18	22.5-25.5	22.5	28	22.6	33	30	30	30	...	...	...
	Dakota	110	94	72	55	44	44	39	33	28	22	25-28	25	26.5	33	34.65	31.5	35	36	...	...	...
	Kansas	110	102	85	76	70	59	46	36	31	22	19	17	30	37	66.00	51.00	51.00	37.00	...	410	410
	Newberry Rates	74	66	62	56	42	40	34	27	20	16	18	16	22	23	49.5	43.5	37.8	30.31	280	170	134

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IN THE CIRCUIT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEBRASKA.

OLIVER AMES, OAKES AMES, FRANK M. AMES, WILLIAM POWELL, MASON E. PIERSON BEEBE, CHARLES J. MERRILL, CHARLES F. CHOATE
Complainants.

VS.

UNION PACIFIC RAILWAY COMPANY, THE ST. JOSEPH & GRAND ISLAND RAILROAD COMPANY, THE OMAHA & REPUBLICAN VALLEY RAILROAD COMPANY, GEO. H. HASTINGS, ATTORNEY GENERAL, JOHN C. ALLEN, SECRETARY OF STATE, EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS, JOSEPH S. BARTLEY, STATE TREASURER, AND A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, OFFICERS OF THE STATE OF NEBRASKA, WILLIAM A. DILWORTH, J. M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD OF TRANSPORTATION,
Defendants.

ANSWER IN EQUITY.

To the Honorable, the Judges of the Circuit Court of the United States, for the District of Nebraska:

The joint and several answer of Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; and A. R. Humphrey, Commissioner of Public Lands and Buildings; officers of the State of Nebraska,

and constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, secretaries of said board, the defendants now and at all times hereafter, saving and reserving unto themselves all benefit and advantage of exception which can or may be had, or taken, to the many errors, uncertainties, and other imperfections in the said complainants' said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as these defendants are advised is or are material or necessary for them to make answer unto, these defendants for answer say:

I.

True it is that said George H. Hastings is the Attorney General, John C. Allen is the Secretary of State, Eugene Moore is the Auditor of Public Accounts, Joseph S. Bartley is the State Treasurer, and A. R. Humphrey is the Commissioner of Public Lands and Buildings, and are each duly qualified and acting and constitute the Board of Transportation of the State of Nebraska, and that William A. Dilworth, J. M. Kountz and J. W. Johnson are the secretaries of said board. But these defendants allege that they, and each of them and all of them, are officers and agents of said State of Nebraska and have no personal or pecuniary interest whatever in the event of this suit, or in the result of the several matters and things charged and set forth in said complainant's bill of complaint herein filed, and are not proper parties

thereto, but that said bill of complaint should of right have been brought against the State of Nebraska, and not against these defedants, or either of them, and that the said State of Nebraska is the real party in interest, and that said State of Nebraska hath not and doth not in any way whatever consent to the bringing of this action, and hath not and doth not submit in any way to the jurisdiction of said Court to hear and determine the several matters in difference charged and set forth in complainants' bill of complaint, and these defendants submit that under the eleventh amendment to the constitution of the United States, the courts of the United States are wholly without jurisdiction to try, hear and determine the several matters in difference charged and set forth in said complainants' bill of complaint, and that under the constitution of the United States and constitution and laws of the State of Nebraska said complainants have a full, complete and adequate remedy at law for all the matters alleged and set forth in said complainants' bill of complaint.

II.

Further answering, these defendants say that true it is that said complainants herein are, and for six months last past have been, stockholders and bond owners of the said defendant, the Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company and the Omaha & Republican Valley Railroad Company, but deny that the

amount is as set forth and charged in said complainants' bill, but these defendants allege and charge the facts to be that soon after the passage and signing by the governor of House Roll No. 33, commonly known as the Newberry bill, which is mentioned and described in said complainants' bill of complaint, these complainants entered into a conspiracy to, and with the said defendant railway companies and their officers and managers, whereby a plan was devised with the end in view to defeat the legislation so as aforesaid had, and prevent the carrying into operation the said bill and the several provisions and commands thereof, and at the same time to avoid the penalties and forfeitures therein prescribed during the pendency of the litigation, and to have the same declared unconstitutional by a decree of this Court, and in order to give this Court jurisdiction thereof the said Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, the Omaha & Republican Valley Railroad Company, and their officers and managers, did procure to be made a pretended demand upon the president and board of directors of the defendant railroad companies that said officers should decline to put the rates prescribed by said House Roll 33 in operation in the State of Nebraska, and to test the constitutionality of said House Roll 33 in the courts; that said defendant railroad companies pretended to refuse such demand, but these defendants aver that while said railroad companies, their officers and managers, pretended to refuse such demands, or to accede to said requests, have in fact complied therewith; and the said

railroad companies, defendants, still confederating and conspiring to and with said complainants, procured said complainants, and each of them, to institute this action in this honorable Court, and to procure an order of injunction herein against the said railroad companies to be issued out of this Court preventing and prohibiting said railroad companies from putting into operation the rates mentioned, and set forth in said House Roll 33, and from carrying into effect any of the provisions and requirements of said law.

III.

The Union Pacific Railway Company was formed January 24th, 1880 by the consolidation of the Union Pacific, the Kansas Pacific and the Denver Pacific Railway & Telegraph Company, with a capital stock of $61,000,000. The terms for consolidation were, that share holders of each company were to receive shares in the new company pany corresponding to the number that each held in the old company. The number of shares of the Union Pacific were 367,623, Kansas Pacific, 100,000, and Denver Pacific, 40,000, the stock of the consolidated company being 570,623 shares of $100 each, or $50,762,300. The capital stock of the Union Pacific Railway Company was increased by the sale, by said company, of $10,000,000 additional stock in February, 1881, making the total amount issued $61,762,300.

The Union Pacific Railroad Company was chartered by congress in July, 1862 for the purpose of building a line of

road from the Missouri River west to the Pacific Ocean. To aid in the construction of said road, congress granted 12,800 acres of public lands, per mile of road, making a total of 13,000,000 acres; also giving the right-of-way of 200 feet through all public land over which said road ran and a subsidy of government bonds at the rate of $16,000, $32,000 and $48,000 respectively per mile, according to the location of the road. The amount of the subsidy for 1,033 miles was $27,226,512. This subsidy was to be a first lien upon the road, but by a subsequent act, July 2d, 1864, the company was allowed to issue an equal amount of its own bonds which were to be a first lien upon the road and the subsidy bonds being thereafter a second lien. For the repayment of the subsidy bond, the company was required to pay annually to the government five per cent of its net earnings, and the government to retain one-half of the charges of said company against it for transportation of government troops and property. The road was opened to Ogden, Utah Territory, May 10th, 1869. The Kansas Pacific Railway Company was first chartered by the legislature of Kansas as the Leavenworth, Pawnee & Western Railroad Company, and was made the recipient of a grant of public lands by congress to the extent of 12,800 acres per mile, being a total of 5,000,000 acres, and also of a subsidy bonds of the general government to the amount of $16,000 per mile to a distances of 394 miles, the total amount of the subsidy bonds being $6,302,-000.

The grant of land and subsidy bonds was made on the

same conditions and terms as those given to the Union Pacific Railroad Company. The name of this company was changed in June, 1863, to the Union Pacific Eastern Division, and changed again by act of congress in May, 1868, to the Kansas Pacific, and was completed from Kansas City to Denver, 638 miles, September 1st, 1870. The Denver Pacific Railway & Telegraph Company's line of road was constructed by the Kansas Pacific Railroad Company, under authority of congress on November 19th, 1867, and was for the purpose of connecting the Kansas Pacific railroad with the Union Pacific railroad. This road was opened January, 1871.

IV.

These answering defendants further say that true it is the Omaha & Republican Valley Railway Company, one of the defendant railway companies in this action is a domestic corporation of the State of Nebraska. This railway company was formed by a consolidation of the Omaha & Republican Valley, the Omaha, Niobrara & Black Hills, the Marysville & Blue Valley, and the Manhatten & Blue Valley railroad companies in 1887, with a capital stock of $2,503,800, and a funded debt of $3,362,000. The Omaha & Republican Valley Railroad Company was incorporated under the laws of the State of Nebraska, August 17th, 1876. The Omaha, Niobrara & Black Hills Railroad Company was incorporated under the laws of said state, April 24th, 1879.

The Marysville & Blue Valley Railroad Company was chartered July 2nd, 1879, under the laws of the State of Kansas; and the Manhatten & Blue Valley Railroad Company was incorporated in said state June 2nd, 1871, as the Manhatten & Northwestern Railroad Company and the name changed to the name last above specified, and the company reorganized thereunder July 28th, 1879.

And these defendants aver that by reason of such incorporation and consolidation as aforesaid, the Omaha & Republican Valley Railway Company became, and ever since has been, and is now a domestic corporation of the State of Nebraska, subject to the constitution and laws thereof.

And these answering defendants further say that they have no knowledge sufficient to form a belief as to whether the Union Pacific Railway Company, operates and controls said road for itself and owns all the stock and bonds thereof, or not, and therefore denies the same and leave the complainants to their proof in that regard.

V.

These defendants further answering say that true it is the St. Joseph & Grand Island Company is a domestic corporation of the State of Nebraska. These defendants say that the St. Joseph & Grand Island Railroad Company was originally chartered by the State of Kansas in 1857, under the name of the Marysville, Palmetto & Roseport Railroad Company, for the purpose of building a railroad from a point

on the Missouri River in the State of Kansas, opposite the City of St. Joseph, Missouri, to Marysville, Kansas. The name of this road was changed in April, 1862 to the St. Joseph & Denver City Railroad Company. The road was completed to Marysville, Kansas in 1866.

In 1866 the Northern Kansas Railroad & Telegraph Company was chartered by the State of Kansas for the purpose of extending the St. Joseph & Denver City Railroad from Marysville, Kansas, in a north-westerly direction to the boundary line between the states of Kansas and Nebraska. August 11th, 1886, the St. Joseph & Denver City railroad and the Northern Kansas Railroad & Telegraph Company were consolidated under the name of the St. Joseph & Denver City Railroad Company, with a capital stock of $10,000,000, for the purpose of extending said road to a connection with the Union Pacific railroad at a point in Nebraska, not further west than the 100th meridan. These defendants say that said defendant railroad company, in order to extend its lines into the State of Nebraska to a connection of the Union Pacific railroad, as aforesaid, by resolution adopted February 3d, 1870, accepted the provision of an act of the legislature of the State of Nebraska, passed February 12th, 1869, which act is as follows: "That any railroad company heretofore organized under the laws of the State of Kansas, Missouri or Iowa, is hereby authorized to extend and build its railroad into the State of Nebraska, and such railroad companies shall have, and possess all the powers, franchises and privileges, and be subject to the same

liabilities of railroad companies organized and incorporated under the laws of this state: Provided such non-resident companies shall first file a true copy of its articles of incorporation with the secretary of this state, and shall comply with the laws of Nebraska as to filing and recording articles of incorporation, and in all things required by law, relating to railroads and otherwise in this state, and such non-resident railroad company shall keep an office in this state in some county in which its road is, or is proposed to be, and shall be liable to civil process to be sued and sue, as provided by law." And in compliance with the provisions and terms of said law, and the terms of the resolution adopted by said railroad company, accepting the provisions thereof, the articles of incorporation of said company, together with the certified copy of said resolution, was filed in the office of the Secretary of State of Nebraska, February 25th, 1870.

And these defendants further say that said St. Joseph & Denver City Railroad Company acted upon and availed itself of all the privileges, rights and benefits of said law, and extended its road into the State of Nebraska, and completed the same to Hastings, in said state, in 1872. And these defendants further say that the legislature of the State of Nebraska, February 14th, 1873, duly passed and the governor signed an act entitled "An act to legalize the incorporation of railroad companies of the State of Nebraska," which act provides "that any railroad company which has been organized under the laws of the States of Iowa, Kansas and Missouri, and which has heretofore extended its line

of railroad in this state, or built any portion of its line of road in this state, and has filed a true copy of its articles of incorporation in the office of the secretary of state of this state, is from the time of filing said copy of its articles of incorporation as aforesaid, hereby declared to be a legal corporation of this state, and entitled to all the rights, privileges and franchises of railroad companies organized under, and pursuant to the laws of the State of Nebraska.

These defendants further answering aver that the total costs of the construction of said railroad from the before mentioned point in nsas on the Missouri River, opposite the City of St. Jose , Missouri, to Hastings, Nebraska, a distance of 225 miles, was not to exceed $3,775,000, and the company realized therefor as follows:

$4,665,493.67 from the sale of $6,755,000 of mortgage bonds of said company, $782,727.10 from subsidy and $1,400 in cash from the stockholders.

In 1874 the St. Joseph & Denver City Railroad was placed in the hands of the receiver appointed in an action then pending to foreclose the mortgage given to secure the bonds of said company, and in 1875 a decree was entered in said case foreclosing said mortgage, and ordering the property of said St. Joseph & Denver City Railroad Company sold to satisfy the same. And in that year, 1875, all the property, rights, franchises, equipments, road beds and rolling stock belonging or pertaining to said St. Joseph & Denver City Railroad Company was sold to the bondholders of said company, who thereupon immediately formed and in-

corporated two new companies, one of which was called the St. Joseph & Pacific Railroad Company, and was to own and operate the road from the Missouri River to Marysville, Kansas, and the other the Kansas & Nebraska railroad, for the purpose of owning and operating the road from Marysville to Hastings. In March, 1877, these two roads were consolidated under the name of the St. Joseph & Western Railroad Company.

The Hastings & Grand Island Railroad Company was incorporated under the laws of the State of Nebraska, with a capital stock of $800,000, May 9th, 1879, for the purpose of building a road from Hastings to Grand Island, Nebraska. a distance of twenty-five miles. The road was built October 1st, 1879, and purchased by the St. Joseph & Western Railroad Company, February 18th, 1880. By the terms of sale, stock of the St. Joseph & Western Railroad Company was exchanged for an equal amount of the Hastings & Grand Island Railroad Company. The amount of stock so exchanged was $800,000.

In 1885, the St. Joseph & Western Railroad Company, and the Hastings & Grand Island Railroad Company were sold under decree of Court, foreclosing mortgage upon the respective roads, and purchased by a committee of bondholders of each road, who immediately formed two new companies, to-wit: The St. Joseph & Marysville Railroad Company, incorporated under the laws of the State of Kansas, and the Grand Island & Marysville Railroad Company, incorporated under the laws of the State of Nebraska.

These two companies immediately consolidated under the name of The St. Joseph & Grand Island Railroad Company, with a capital stock of $4,600,000 and a funded debt of $8,680,000.

And these defendants aver that by reason of such consolidation and by reason of the acts of the original constituent companies as hereinbefore set forth, said St. Joseph & Grand Island Company became, and is now, a domestic corporation of the State of Nebraska and subject to the constitution and laws of said state.

These defendants deny that the St. Joseph & Grand Island Railroad Companies is or has been for a long period of time operated by the Union Pacific Railroad Company, and further answering say that they have no knowledge sufficient to form a belief as to whether The Union Pacific Railway Company owns all or any part of the stock or bonds of said railroad company, and therefore deny the same, leaving the complainant to their proof in that regard.

VI.

Further answering, these defendants say that the lines of railway within the limits of the State of Nebraska, claimed to be owned and operated by The Union Pacific Railway Company, or the capital stock and bonds of which said railway company claims to own, except its main line, are lines which have been constructed under and by virtue of corpo-

rations organized and existing under and by virtue of the laws of the State of Nebraska, and all of which said lines yet have and maintain their original corporated name, and are in all respects as fully subject to the constitution and the laws of the State of Nebraska as if The Union Pacific Railway Company was in no way or manner interested in their ownership or operation.

And that The Union Pacific Railway Company is, so far as relates to its traffic originating within the State of Nebraska, and destined to some other point within said state, subject to and under control of the constitution and laws of the State of Nebraska, as fully and completely as though said company was originally incorporated under the laws of said state, and is as to all such traffic originating and ending in this state a domestic corporation of this state, amenable in all things to the constitution and laws of said state, and to the provisions of said House Roll No. 33.

VII.

These defendants further answering say that the respective railway companies which are named as defendants in this action and claimed to be a part of the system of the Union Pacific Railway Company, or in which the Union Pacific Railway Company is interested, received large grants of land from the general government to aid in the construction of their several roads, as follows:

The Union Pacific Railroad Company, 13,000,000 acres

of land of the value of $39,000,000. And these defendants upon information and belief allege the fact to be that said Union Pacific Railway Company received for said land the sum of $39,000,000.

And the St. Joseph & Grand Island Railroad Company received 1,600,000 acres of land, mostly in the State of Nebraska, of a value of $6,400,000, and these defendants aver upon information and belief that said St. Joseph & Grand Island Railroad Company, or its constituent companies, received for said land the sum of $6,400,000.

And these defendants further answering say that in addition to the land so as above granted that the constituent companies of the lines mentioned in complainants' bill, received aid from the municipalities through which said road ran, to a large amount.

The St. Joseph & Denver City Railroad Company over $500,000.

The Hastings & Grand Island Railroad Company, $25,000.

The Omaha, Niobrara & Black Hills Railroad Company $72,000.

The Omaha & Republican Valley Railroad Company about $500,000.

VIII.

And these answering defendants for further answer deny that the maximun rate bill complained of in complainants' bill of complaint, and therein being spoken of as House Roll 33, violates the provisions of the constitution of the United States, which forbids any state to deprive any person of his property without due process of law, or to deny any person within its jurisdiction of the equal protection of the laws, or to pass a law impairing the obligation of a contract, or which interferes with commerce between the states; and these defendants further deny that the enforcement of said House Roll 33 will operate in any way as a confiscation of the property of said railway company, and denies that said House Roll 33 is in violation of the constitution prohibiting the taking of property without compensation or without due process of law, but, upon the contrary, say that the rates therein fixed are reasonable maximum rates, and that the lines of railway constituting The Union Pacific Railway System within the State of Nebraska, by a compliance with and the faithful obedience to the provisions of said House Roll 33, will earn as much money as they have heretofore earned, and will earn a sufficient amount of money to pay reasonable profit upon the amount of money invested in the construction and equipment of said lines of road, as well as interest upon its legitimate funded debt, and also a dividend upon its legitimate outstanding stock.

In this connection, these answering defendants further say, that the capital stock of The Union Pacific Railway Company, and the bonded debt thereof, exceeds the sum of money which would be necessary to reproduce the same or a like system of property; and say that the capital stock of the Omaha & Republican Valley Railway Company, including its bonded debt, exceeds the sum which would be necessary to reproduce the same or a like system of property; and further say that the capital stock, including the bonded debt of the St. Joseph & Grand Island Railroad Company exceeds the sum which would be necessary to reproduce the same or a like system of property; and deny that said stock and bonds, or either of them, represent the true cost or value of either of said respective railway companies; but, upon the contrary, these defendants aver that the capitalization and funded debt secured by mortgage of the said respective railway companies is much in excess of the real cost of said property, and does not represent money actually invested in the construction and equipment of their various lines of road, and say that the said lines of road within the limits of the State of Nebraska did not cost to construct and equip the same, as these respondents are informed and believe, a sum exceeding $15,000 per mile; and these defendants, upon information and belief, further say that the said lines within the limits of the State of Nebraska could be reproduced and equipped at a sum of money not exceeding $15,000 per mile.

IX.

These defendants in this connection further answering say, upon information and belief, that the capital stock of the Union Pacific Railway Company does not represent money actually invested in the construction and equipment of its said lines of property, and that the owners and holders of its said stock did not pay to the railway company in money, or other consideration the face value of said stock; and further say, that said stock was issued largely for the purpose of absorbing the surplus earnings of the company, and for the purpose of having it appear to the public that excessive dividends were not being paid, and that large amounts of stock of said Union Pacific Railroad Company were issued as bonuses for the purpose of promoting favorable legislation regarding the interstate-railway which lies within the limits of the State of Nebraska. A statement of the capital stock of the Union Pacific Railway Company is hereto attached marked Exhibit "A" and made a part hereof.

And notwithstanding the fact that a large amount of the capital stock of said company does not represent money actually invested in said company in the construction and equipment of roads, yet the said railway company did for a long series of years earn sufficient money to pay all its operating expenses together with interest upon its large funded debt and the five per cent government reserve, and a

dividend of from five to ten per cent annually upon its stock; all of which more particularly appears in Exhibit "B" hereto attached and made a part hereof.

And in this connection defendants further aver that if the payment of cash dividends had been confined to stock which actually represented cash invested in the railway company, for the construction and equipment of its lines of road, that the net earnings would have paid a dividend annually of from twenty to twenty-five per cent, including interest upon its funded debt and five per cent reserve fund to the general government.

In this connection these defendants further say that the funded debt of the Union Pacific Railway Company was reported in 1892 to be $119,031,697; and these defendants say, that if the funded debt of the said company is as above stated, that the same is vastly in excess of the cost and value of said railway company, and that said funded debt does not represent the real cost and value of the lines of road of the said railway company, and that a like system of lines of road could be constructed and equipped for a much less sum of money than that represented by the funded debt.

A statement showing the dates, rates and amount of dividends paid on the Union Pacific Railway Company's stock is hereto attached, marked Exhibit "C" and made a part of this answer.

Whereby said railway company is not entitled to claim that it should receive enough money over and above its operating expenses to pay interest upon its excessive funded

debt, and likewise to pay a dividend upon so large an amount of capital stock, in so far as the same does not represent the value of its said road.

X.

These defendants in this connection, further answering, say upon information and belief, that the capital stock of the Omaha & Republican Valley Railway Company does not represent money invested in the construction and equipment of its said lines of property, and that the owners and holders of its said stock did not pay to the railway company or its constituent companies in money or other consideration the face value of said stock; and further say that said stock was issued largely for the purpose of absorbing any surplus earnings that might arise from the operations of the company, and for the purpose of having it appear to the public that excessive dividends were not being paid. A statement showing the capital stock of said railway is found in Exhibit "A", hereinbefore referred to.

And these defendants, upon information and belief, charge the fact to be that large portions of said stock and bonds have been and were issued, and are without consideration, and do not represent money actually invested by the company in the construction and equipment of lines of road; yet the said railway company has for a long series of years earned sufficient money to pay all its operating expenses, together with interest upon its large funded debt.

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In this connection these defendants aver that if the payment of interest had been confined to the bonds that actually represented the money invested in the railway company for the construction and equipment of its lines of road that the net earnings would have paid a dividend equal to from ten to fifteen per cent, including interest upon the legitimate outstanding funded debt.

XI.

And these defendants in this connection further answering say upon information and belief, that the capital stock of the St. Joseph & Grand Island Railroad Company does not represent money invested in the construction and equipment of its said lines of property, and that the owners and holders of its said stock did not pay to the railroad company or its constituent companies in money or other consideration the face value of said stock; and further say that said stock was issued largely for the purpose of absorbing any surplus earnings of the company that might arise, and for the purpose of having it appear to the public that excessive dividends were not being paid, and for the purpose of promoting favorable legislation for said company or its constituent companies. A statement showing capital stock of the St. Joseph & Grand Island railroad is found in Exhibit "A". That at the time of the completion of the St. Joseph & Grand Island railroad to the City of Hastings in Adams County, Nebraska, the money invested in the cap-

ital stock of said company and its constituent companies did not exceed the sum of $1,400,000 yet now so it is that the capital stock has been increased from time to time until the total amount issued and outstanding is $4,600,000 and that the whole amount of cash realized by said company upon account of said issue of said stock did not exceed $600,000, so that it would appear, and these defendants upon information and belief aver, that more than $4,000,000 of said stock, or nearly the entire amount thereof was issued and distributed to persons by way of a bonus upon construction contracts.

And in this connection these defendants further say that at the time of the filing of this complaint, the funded debt of the St. Joseph & Grand Island Railroad Company was over $8,721,400, and these defendants aver that such amount of itself equals the value of the property of the said railroad company, and that a like system of lines of road could be constructed and equipped within the State of Nebraska for about the sum of money which is represented by the funded debt. Whereby said railroad company is not entitled to claim that it should receive enough money over and above its operating expenses to pay the interest on its funded debt, and likewise to pay a dividend upon so large an amount of capital stock, in that the same does not represent the value of its said road.

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XII.

These defendants for further answer say that they have o definite and positive knowledge as to the earnings of the Union Pacific Railway System, or the roads in which it may e interested, in the State of Nebraska for the year 1892, nd have no definite or positive knowledge as to the amount f operating expenses, taxes, renting of tracks, interest on onds and sinking fund payments of the Union Pacific Rail- ay Company for the year 1892, but upon information and elief aver that in anticipation of the passing of a maximum eight bill, and to avoid the payment of what might appear o be a large surplus, did purchase or cause to be purchased, n unusually large amount of rolling stock, and did invest large amount of money in repairs and other improvements ith a view of having it appear that the operating expenses ere large, and that dividends, or if any, small dividends ould be paid upon the stock.

In this connection these defendants further say that in etermining whether or no the company was reaping an un- easonable profit over and above its investment and oper- ting expenses, there should not have been deducted or aken into account the large sums representing interest pon bonds of the Union Pacific Railway Company, for the eason that said bonds did not represent the real cost of its oads within the State of Nebraska, as has been hereinbe- ore more particularly set forth.

These defendants, further answering say, and allege the truth to be, that the larger portion of the tonnage, carriage and transportation upon the line of the Union Pacific Railway Company and the lines in which it may be interested in the State of Nebraska, consist of grain, destined to eastern markets, on a through, or interstate rate, which has heretofore been placed at a very low figure as compared with the local or state rates, thereby causing the local or state business to bear an unjust proportion of the burden of freight charges, and which excessive charges for local and state business have been made by the management of the Union Pacific Railway System in order to yield a large profit on the business of its lines, and by way of illustration say, that for the two years last past, and during the year 1892, corn was hauled from the State of Nebraska to Chicago, Illinois, at an average of seven mills per ton, per mile, while, the average charge by the company per ton, per mile, for local tonnage was one cent and eight mills, being more than double the interstate rate upon corn.

And these defendants allege that the local rate should not be placed at a high figure as compared with the interstate rate, for that such high rate for local business is unjust and works a great wrong and hardship to the people of the State of Nebraska, and is a discrimination against local shippers, and that it has been the policy of the management of the company at all times to make a low through or interstate rate, and to charge an unreasonable and unjust local rate upon shipments originating and ending within the

state; and that the same applies to passenger traffic, in that the local traffic is charged with high rates, and with large items of expense in order to support the service for the accommodation of through travel.

These defendants further allege that during the two years last past and during the year 1892, and at the present time, the Union Pacific Railway Company ran, and still does run, three through freight trains daily each way entirely crossing the State of Nebraska between the Missouri River and the western boundary of said state, for the sole purpose of carrying through freight. That said freight trains stop only at division stations within the state, and carry no local freight, and that the expense of running said trains, and each and all of them, are charged against the lines of road within the State of Nebraska; yet true it is, that said through trains do no business of any amount whatever within the said State of Nebraska, except to transport freight originating beyond the boundaries of the state, and being carried to points also beyond the limits of the State of Nebraska; whereby the fixed charges and operating expenses of the lines within the State of Nebraska are made to appear much larger than they are in fact, and which said charges and operating expenses for the transportation of the freight on said through trains (no part of which originates within or is delivered to any point within the State of Nebraska) should not be charged, or computed in determining the cost of the fixed charges, and operating expenses for transporting local freight within the limits of the state, and

that it is unjust and unfair to make high charges for local freight for the purpose of paying the operating expenses, and fixed charges for such through traffic as is hereinbefore described.

XIII.

These defendants further answering say that at the time of the construction of the roads in which the Union Pacific Railway Company claims an interest, or claims to operate or control, there existed in the constitution of the State of Nebraska and still does exist, the following provision, being Section 4 of Article 11:

"Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the legislature may from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this state."

That at the session of the legislature of the State of Nebraska for the year 1893, said legislature being advised that the rates heretofore charged by the Union Pacific Railway Company, the Omaha & Republican Valley Railroad Company, and the St. Joseph & Grand Island Railroad Company, and other railroad companies for the transportation of freight were excessive and unreasonable, and that by

reason of the matters and things hereinbefore set forth, and by reason of other information by the said legislature had, as the result of its own wisdom, investigation and inquiry, did pass the law complained of, in which it is provided, among other things, "That each of the railroads in the State of Nebraska shall charge for the transportation of freight from any point in said state, to any other point in said state, no higher or greater rate of charge than is by this act fixed as the reasonable maximum rate for the distance hauled, and the reasonable maximum rates for the transportation of freight by railroad from any point within the State of Nebraska to any other point in said state, are declared and established to be as hereinafter in this section fixed, for the distance named, and no higher or greater rate for the distance hauled than that herein fixed and established, is prohibited and declared to be unlawful, and the reasonable maximum rates herein fixed and established shall be known as "The Nebraska Schedule of Reasonable Maximum Rates."

These defendants aver and say that said legislature was clothed with the power and authority to investigate and determine, and by law establish, what should constitute reasonable maximum rates for the transportation of freight originating within the State of Nebraska and destined to a point within said state, and to so declare by law, by said legislature is conclusive and binding upon all the parties, and is not subject to investigation or revision, except by the legislature of the state, or in such other manner as the state legislature may by law provide.

And in this connection these defendants aver that sa
maximum rates so established by the said law are reasonab
in fact. These defendants aver upon information and beli
that the Union Pacific Railway Company, Omaha & Repu
lican Valley Railway Compan, St. Joseph & Grand Islan
Railroad Company, and other railway companies within th
State of Nebraska by compliance with, and submission
said law will receive sufficient earnings to pay a good an
reasonable profit to them respectively.

XIV.

And these defendants further answering say, that sai
House Roll 33, did not take effect and become a law of th
State of Nebraska until the first day of August, 1893.

That the defendant Union Pacific Railway Company
did not on the first day of August, 1893, nor at any tim
since, place the rates as set forth in said House Roll 33, i
force upon any part of its line of road in this state, and tha
said defendant railway company has never carried an
freight along the line of its road in this state or any part o
said line in compliance with the provision of said Hous
Roll 33.

XV.

These defendants further answering deny that congres
has in any manner, or can in any way abridge the right o
the State of Nebraska to regulate and control all railroad
within the limits of said state, in so far as local operation

and the transportation of local freight are concerned, but on the contrary, these defendants aver that the United States cannot and does not limit or interfere with the State of Nebraska in the control and regulation of state commerce. And these defendants further say that the act of congress of the United States, mentioned in complainants' bill as prohibiting reduction of fares on the Union Pacific Railway, until the net income of said road shall exceed ten per cent, exclusive of the five per cent reserve for the United States, refers solely to the fare or amount charged for the transportation of interstate passengers for interstate travel, and does not in any way or manner apply to the amount of charges for carriage of freight, and especially to local freight.

XVI.

And these defendants further answering allege that the rate for the transportation of freight within the State of Nebraska upon the several lines of railroad doing business therein, as fixed by House Roll 33, are a uniform reduction from the local rates before this time in force, within this state, for a long period of years, and while it may appear that the rates fixed is a small charge for hauling twenty-five pounds of freight five miles, yet by reference to the public schedules of the Union Pacific Railway Company, the Omaha & Republican Valley Railroad Company, and the St. Joseph & Grand Island Railroad Company for hauling of freight within the State of Nebraska, which has been in

full force and operation within this state for a long period of years last past, it will be found to be only a fraction of a cent lower than the published, posted and established rates made by the said railroad companies and in force and operation in this state.

Classes D, and E, are classes provided for in said House Roll 33, and consist of such articles as sand, stone and the like, which are exceedingly heavy and of small value, and are carried at carrier's own time, and with rolling stock of comparatively small value. True it is that by the provisions of said House Roll 33, the rate upon lumber is higher for eighty-five miles than for 125 miles, as the same appears on the face of said bill, but the same is an error in the transcribing of said bill, and is one of those discrepancies or errors that said board of transportation, under the provisions and requirements of said House Roll 33, has full power and lawful authority to correct. That by the terms, conditions and provisions of said House Roll 33, it is provided: "That the board of transportation is hereby empowered and directed to reduce the rate on any class or commodities in the schedule of rates fixed in this act, whenever it shall seem just and reasonable to a majority of said board, so to reduce any rate; and said board of transportation is hereby empowered and directed to revise said classfication of freight as hereinbefore in this act established, whenever it shall appear to a majority of said board just and reasonable to revise said classification; provided, that the said board of transportation shall never change a classification in this

act established, so that by such change of classifications, the rates on any freight will become higher or greater than in this act fixed."

But these defendants deny that the said Union Pacific Railway Company, the Omaha & Republican Valley Railway Company, and the St. Joseph & Grand Island Railway Company, or any other railroad company doing business in the State of Nebraska, have a right to discriminate against any person, thing or place in the matter of freight charges, or charges for the transportation of passengers, within this state, by carrying the freight for one person, or from one place at less than the actual cost of such carrying, and then charge some other person for carrying or transporting freight for him, from the same, or any other place, more than a reasonable rate, in order to cover the loss upon a lower rate.

And these defendants deny that under the provisions of House Roll No. 33, property will be taken for public use without just compensation, or without due process of law, and aver that the said Union Pacific Railway Company, The Omaha & Republican Valley Railway Company, and The St. Joseph & Grand Island Railroad Company and its stockholders, bondholders, officers, managers and employees are estopped from denying the reasonableness of the rates for the transportation of freight which have been in force and effect by the voluntary action of said officers, managers and agents of the said railroad companies, within the State of Nebraska for a long period of years last past, and which have been in many instances lower than the rates fixed by House Roll 33.

*8

XVII.

These defendants further answering, deny that the rates for the transportation of freight as fixed by House Roll 33, are lower than the rates of neighboring states similarly situated to the State of Nebraska; and these defendants further say that they have no knowledge as to the correctness of the tabulated statement referred to in the bill of complaint, touching the comparison of rates between Nebraska and the States of Wyoming, Minnesota, Dakota and Kansas, and therefore deny the same, and leave the complainants to their proof in that regard; but upon the other hand these defendants say that the maximum rate fixed in Nebraska by House Roll 33, upon many commodities, is much higher than the rate, permitted in any of these last four named states; and further say that there are various considerations which enter into what would constitute a reasonable maximum rate in the last four named states, which would not and do not apply to the State of Nebraska. These defendants submit herewith a table showing the maximum rates for carrying freight in the State of Nebraska, and in the State of Iowa, a state similarly situated to the State of Nebraska, and which is hereto attached and marked Exhibit "D", and from which it appears that the maximum rates fixed for the State of Nebraska are considerably higher than the rates fixed for the State of Iowa; and the defendants allege that the railroads in the State of Iowa, since the reduction of rates upon freight

in that state, have earned as much money, and have paid as large dividends as said railroads paid before such reductions were made, and that the defendants believe that the railroads within the State of Nebraska would earn as much money and pay as large dividends if they would submit to and comply with the present maximum rate law, as described in House Roll 33, as they have heretofore; that the State of Nebraska for ten years and upwards, last past, has been steadily increasing in population, thereby increasing the tonnage and passenger traffic upon the several lines of roads doing business in this state, and that there is every reason to believe that said increase in population and railway traffic will continue for a great many years to come.

XVIII.

These defendants further answering deny that House Roll No. 33, excludes every mode of inquiry into the reasonableness of any of the schedule rates prescribed therein, and deny that said rates are absolute and arbitrary, but say that all such matters are subject to inquiry and investigation, and is provided in said law, as follows, to wit:

"Whenever any railroad company or companies in this state shall, in a proper action, show by competent testimony that the schedule of rates prescribed by this act are unjust and unreasonable, such railroad or railroads shall be exempt therefrom, as hereinafter provided. All such actions shall be brought before the Supreme Court, in the name of the

railroad company, or companies, bringing the same, and against the State of Nebraska, and upon the hearing thereof if the court shall become satisfied that the rates herein prescribed are unjust in so far as they relate to the railroad bringing the action, may issue their order directing the board of transportation to permit such railroad to raise its rates to any sum in the discretion of the board; provided, that in no case shall the rates so raised be fixed at a higher sum than that charged by such railroads on the first day of January, 1893."

And these defendants allege that the rates which were in force on January first, 1893, upon the several lines of the Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railway Company, doing business in the state of Nebraska, have been in force a time sufficiently long to determine their reasonableness or unreasonableness, and the profits of the railroad companies received thereunder in the transaction of their business, whereby said several railroad companies are estopped from denying that such rates in force on the first day of January, 1893, were so low as to be unreasonable or unjust in that respect.

These defendants further say that under another section of said act, hereinbefore quoted, the Board of Transportation is empowered and directed to revise the classification of freight in said act established, whenever it shall appear to a majority of said board just and reasonable to revise said classification.

These defendants further say that under an act of the Legislature of the State of Nebraska, entitled: "An act to regulate railroads to prevent unjust discrimination, provide for a board of transportation, and define its duties, and repeal articles 5 and 8 of chapter 72, entitled: 'Railroads, of the Revised Statutes, and all acts and parts of acts in conflict herewith,' " which was approved in 1887,—the State Board of Transportation was created, organized and established, of which these defendants are the members, it was made and is the duty of said Board of Transportation, composed of the Auditor of Public Accounts, the State Treasurer, the Secretary of State, the Commissioner of Public Lands and Buildings, and the Attorney General of the State of Nebraska, to try, hear and determine all complaints made to said board by any and all persons complaining of anything done or omitted to be done by any railroad company in said state, in contravention of any of the provisions of said act, and to inquire into the question of freight rates and charges and other matters contained in said act provided, and that in the procedure under said act, the railway companies are entitled to have, and must receive proper notice, and entitled to introduce evidence and to have their day in court, and that after such investigation and hearing, should the judgment of the Board of Transportation be adverse to the said railway company, they have a right to appeal from such judgment of the Board of Transportation to the judicial tribunals of the state.

XIX.

These defendants for further answer deny that the provisions of said act exempting certain railroads from the operations thereof, to-wit, as follows: "All railroads or parts thereof which have been built in this state since the first day of January, 1889, or may be built before the 31st day of December, 1899, shall be exempt from the provisions of this act until the 31st day of December, 1899," is unconstitutional and is an unlawful discrimination against other railroad companies; and in this connection the defendants further say that under and by virtue of the terms of the constitution of the State of Nebraska, the legislature of the state was empowered and authorized to establish maximum rates of charges for the transportation of freight on the different railroads, and that the legislature is not required to provide that said maximum rate should be the same upon each and all of the roads within the State of Nebraska.

XX.

These defendants further answering deny that the said Board of Transportation on or about the 1st of August, 1891, or at any other time found or determined that the local rates for the shipment of freights within the limits of the State of Nebraska were either reasonable, just or warranted; and these defendants further answering say that since said date

the condition of affairs in the State of Nebraska has vastly changed and that what was a reasonable maximum rate at that time, would be an unjust, unreasonable and unwarranted rate at this time; and that since said time, the tonnage of freight as well as passenger traffic, has vastly increased within the limits of the State of Nebraska, whereby the same can be transported at lower rates; and further that the values of all farm products and manufactured articles, as well as labor has become reduced since 1891, by reason thereof the cost of transportation should likewise be reduced, and that notwithstanding all the foregoing facts, the interstate commerce rate upon the railroads in the State of Nebraska upon grain, coal, live stock, lumber, merchandise and upon nearly all of the commodities that the people of the State of Nebraska ship out of, or into the state, have been raised about four cents per hundred pounds, thereby increasing the revenues and income of railway companies; while upon the other hand the railway companies have made no corresponding reductions upon the local rates within the state, but which should have been reduced for the reasons hereinbefore stated.

XXI.

And these defendants deny that the various lines of road are operated together as a continuous and connecting line, and deny that the carriage and shipment of freight over the said road is a continuous carriage by the same cars, trains,

engines and crews of men, but on the contrary, say that all trains of cars arriving at Omaha are there abandoned and all freight is there redistributed and new trains of cars are then made up with new crews of men and with different engines; and that in all cases where freight destined for points on the Omaha & Republican Valley Railway, or St. Joseph & Grand Island Railroad, arrive at junction points along said road, it is again redistributed and new trains made up with new crews of men and different cars and engines. And that all freight passing over said road is sorted and separated and the through or interstate freight is separated from the local or state freight, and when so sorted and separated, shipped in different cars and by different trains from each other, and have no connection whatever one with the other. These defendants aver that said defendant railroad companies for a long time past have made, and still do make, a distinction between local or state freight, that is, freight originating and ending within the State of Nebraska, and through or interstate freight, shipping the through freight in separate and distinct cars and trains from that of other freight. That this separation is made by said railway companies themselves for their own convenience and in order to facilitate the business of said road, and that such shipment of freight over the defendant railway companies of respective lines, are separate and distinct one from the other, practically as much so, as if each and all of the said several lines of roads were operated by independant corporations.

These defendants further say that if there be intermingled in the same cars or train of cars local freight and interstate commerce freight, the same is a voluntary act of the company; and the defendants further answering say that the said railway companies cannot by the voluntary intermingling of interstate commerce freight, with local freight, take away from the jurisdiction of the State of Nebraska its constitutional and inherent powers to establish a reasonable maximum freight rate for local business. Nor can said company by said intermingling of freight, withdraw itself as a body corporate from the regulation and control of the general state government.

XXII.

These defendants for further answer say that said House Roll 33 was duly passed by the House and Senate, composing the legislature of the State of Nebraska in strict conformity to law, and in obedience to the requirements of the constitution of the State of Nebraska, and after such passage of duly signed and approved by the governor of the State of Nebraska, in form and manner as prescribed by the constitution and laws of the State of Nebraska; and that under and by virtue of the laws and of the consitution of the State of Nebraska, the same became a law and of full force, virtue and effect; and these defendants deny that the bill for said act was not read at large in the House on three separate days, and denies that said bill was put upon its passage

without being so read, and deny that divers radical changes were made in said bill, without the action or knowledge of the said House; and deny that the said bill was erroneously engrossed, and deny that said bill was not read at large on three different days in the Senate, and deny that said bill was put upon its passage in the Senate, without being so read; and deny that in the enrollment of said bill, that changes were made therein; and upon the contrary say that the bill as signed by the governor was the same bill as was duly passed by the two Houses composing the legislature.

These defendants further answering deny that said House Roll No. 33 in any way amends, alters, changes, adds to, or abridges said act entitled "an act to regulate railroads, to prevent unjust discriminations, provides for a board of transportation, to define its duties, and repeal Articles 5 and 8 of Chapter 72, entitled 'Railroads', of the revised statutes, and all acts and parts of acts in conflict therewith," approved March 31st, 1887, or any part thereof, but aver that said House Roll No. 33, is an act entire of itself, referring to and dependent upon no other law of the State of Nebraska.

XXIII.

These defendants deny that the Board of Transportation ever determined to reduce the rates on certain classes, and commodities in the schedules of rates fixed in the said act below the rates therein particularly described as charged in the bill of complaints, and deny that said Board of Transportation

has determined to revise the classification of rates in said act established, and deny that the rates in said act established will reduce the earnings of any of the railroads in the State of Nebraska, as in the bill of complaint averred, or in any other sum whatsoever, and deny that the enforcement of said maximum rate law will in any manner whatsoever operate to confiscate the property of any of the railroads within the State of Nebraska; and further deny that the Board of Transportation intends to do any matter or thing other than that which it is their duty to do, to the end that the said law may be enforced.

And in this connection the defendants do admit that they mean and intend to see that the provisions of said law are enforced and that the respective railroad companies within the State of Nebraska shall submit to the provisions of said law, and to that end admit that they intend to do, and mean to do, whatever thing may be proper, lawful and expedient to do, looking toward a faithful enforcement of said law, and the subjection of the railway companies to the provisions thereof; but in this connection further deny that they ever contemplated, threatened or intended to bring any action, or institute any suit, proceedings, prosecutions or indictments against any of the respective railway companies, their officers, agents or employees; unless such railway company or companies through their officers, agents or employes violate one or more of the provisions of said law, but in which event they admit they would do whatever should be

lawful for them to do under the provisions of said law, look ing to enforcement thereof.

And these defendants say that if there is any othe matter, cause or thing in the bill of complaints contained material or necessary for these defendants, to make answe unto, and not herein and hereby well and sufficiently an swered, confessed, traversed and and avoided or denied, the same is not true, to the knowledge and belief of these de fendants, all of which matters and things these defendants are willing to aver, maintain and prove as this Honorable Court shall direct.

And these defendants pray the same advantage of their aforesaid answer, as if they had pleaded or demurred to the said bill of complaint.

And these defendants pray leave to be dismissed with their reasonable costs, and charges in this behalf most wrongfully sustained.

GEORGE H. HASTINGS,
W. A. DILWORTH,
Attorneys for Defendants.

JNO. L. WEBSTER,
Of Counsel.

Exhibit "A".

Statement showing mileage and capital stock and funded debt of the Union Pacific Railway Company, St Joseph and Grand Island Railway Company, and the Omaha and Republican Valley Railroad Company for each year, from the date of their organization to the year 1892, inclusive:

Date.	*Miles.*	*Amount of Capital Stock Issued.*	*Funded Debt.*
1880	1821	$50,762,300	$92,984,625
1881	1821	60,762,300	82,118,134
1882	1821	60,868,300	81,845,507
1883	1821	60,868,500	84,500,332
1884	1831	60,868,500	84,173,285
1885	1832	60,868,500	81,957,683
1886	1832	60,868,500	81,969,128
1887	1824	60,868,500	80,180,655
1889	1824	60,868,500	82,090,585
1890	1821	60,868,500	73,968,885
1891	1821	60,868,500	90,868,500
1892	1821	60,868,500	85,492,185
OMAHA & REPUBLICAN VALLEY RAILWAY.			
1887	469	$2,503,800	$3,362,000
1888	469	2,347,050	5,204,000
1889	469	2,347,050	5,941,000
1890	482	2,347,050	5,941,000
1891	482	2,347,050	5,941,000
1892	482	2,420,550	5,941,000
ST. JOSEPH & GRAND ISLAND RAILROAD.			
1885	251	$4,600,000	$8,680,000
1886	251	4,600,000	8,680,000
1887	251	4,600,000	8,680,000
1888	251	4,600,000	8,680,000
1889	251	4,600,000	8,735,247
1890	251	4,600,000	8,721,405
1891	251	4,600,000	8,721,405
1892	251	4,600,000	8,721,405

Exhibit "B".

Statement showing the rates and dates of payment of all dividends delared by the Union Pacific Railroad Company:

Date.	*Rate.*
1875, July 1	1½
1875, October 1	2
1876, January 1	2
1876, April 1	2
1876, July 1	2
1876, October 1	2
1877, January 1	2
1877, April 1	2
1878, April 1	2
1878, October 1	1½
1879, January 1	1½
1879, April 1	1½
1879, July 1	1½
1879, October 1	1½
1880, January 1	1½
1880, April 1	1½
1880, July 1	1½
1880, October 1	1½
1881	7
1882	7
1883	7
1884	3½

Exhibit 'C".

Statement showing the date, rate and amount of dividends declared by the Union Pacific Railroad Company:

Date.	*Rate.*	*Amount.*
1875	3½	$1,286,075
1876	8	2,939,600
1877	8	2,939,600
1878	3½	1,837,250
1879	6	2,204,700
1880	6	3,045,738
1881	7	4,076,134
1882	7	4,260,788
1883	7	4,260,788
1884	3½	1,065,197

Exhibit "D."

Table showing comparison of rates by classes and cents per hundred pounds in Iowa and Nebraska:

	In Cents Per 100 Lbs.				Car Load Lots, In Cents per 100 Lbs.					
	1	2	3	4	5	A	B	C	D	E
5 Miles—										
Iowa	14	11.9	9.34	7	4.9	5	4.9	4.2	3.5	2.8
Nebraska	13	11	9	7	5	5	4	3	3	2
50 Miles—										
Iowa	20	17	13.34	10	7	7.05	7	6	5	4
Nebraska	24	19	14.5	12	60	10	8	7	5	3.5
100 Miles—										
Iowa	24	20.4	16	12	8.4	9	8.04	7.2	6	4.8
Nebraska	29	25	21	20	16	15	10	9	7	5.5
150 Miles—										
Iowa	32	25.3	19.5	15.3	11.3	12.5	10.7	9.2	7.7	6.4
Nebraska	41	36	32	29	22	23	14	13	9	6.5
200 Miles—										
Iowa	40	30.2	23	18.6	14.2	15.9	13	11.1	9.39	8
Nebraska	55	48	43	36	31	29	20	17	12	8
250 Miles—										
Iowa	48	35.1	26.5	21.8	17.1	19.2	15.25	13.05	10.99	9.5
Nebraska	58.5	53	47	41	35	30.5	22.5	15.5	13.5	10
300 Miles—										
Iowa	56	40	30	25	20	22.5	17.5	15	12.5	11
Nebraska	62	57	52	46	39	32	26	20	15	12
350 Miles—										
Iowa	58.5	42.5	32.5	27.5	22.5	25	20	17.5	15	13.5
Nebraska	69	62	57.5	51	40	35	29	23	17.5	13.5
400 Miles—										
Iowa	61	45	35	30	25	27.5	22.5	20	17.5	16
Nebraska	75	66	62	56	42	40	34	27	20	16

Exhibit "D"—Continued.

	Car Load Lots, In Cents per 100 Lbs.								Coal in Cents Per Ton.	
	Wheat, Flour, etc.	Coarse Grain.	Lumber & Grain.	Salt, Lime, Cement.	Horses & Mules.	Cattle, Horses & Mules.	Hogs.	Sheep.	Hard.	Soft, Nut and Lump.
5 Miles—										
Iowa	4.5	3.75	3.5	3.25	5.37	5.13	5.67	8.40	60	30
Nebraska	4	4	4	3	10.75	9.75	8.50	3.40	60	30
50 Miles—										
Iowa	6.3	5.25	4.9	4.51	8.75	8.68	8.67	12	96	66
Nebraska	7	7	7	5.5	17.50	16.50	13	12	96	66
100 Miles—										
Iowa	8.1	8.75	6.3	5.85	12.5	11.32	10.96	16	1.36	1.00
Nebraska	10.5	9	6	9	25	21.50	18.00	16	1.36	1.00
150 Miles—										
Iowa	9.5	7.9	7.4	6.85	15	13.42	18.8	19	1.70	1.15
Nebraska	13	11	9	9	30	25.50	21	19	1.70	1.15
200 Miles—										
Iowa	10 8	9	8.4	7.8	17.5	15.53	14.8	22	2.00	1.30
Nebraska	14	13	11	13	35.00	29.60	24.00	22.00	2.00	1.30
250 Miles—										
Iowa	12.15	10.13	9.45	8.8	19.37	17.89	16.9	23.9	2.20	1.40
Nebraska	14.5	13.5	14.5	15.5	38.75	34.00	28.00	25.90	2.20	1.40
300 Miles—										
Iowa	13 53	11.25	10.50	9.75	21.25	20.26	19	25.9	2.40	1.50
Nebraska	16	14	17	18	42.50	33.50	32.00	25.90	2.40	1.50
350 Miles—										
Iowa	14.33	12.4	11.55	10.75	23	21.58	19.62	28.3	2.60	1.60
Nebraska	17	15	19.5	20.5	46.00	41.00	34.50	28.30	2.60	1.00
400 Miles—										
Iowa	16.2	13.5	12.6	11.7	24.75	22.89	21	30.3	2.80	1.70
Nebraska	18	16	22	23	49.50	43.50	37.00	30.31	2.80	1.70
500 Miles—										
Iowa	18.87	15.70	14.70	13.60	28.15	25.49	22.25	34.3	3.20	1.90
Nebraska	22	20	27	35	36.50	48.50	42.00	34.70	3.20	1.90

Iowa rate on live stock in cents per 100 pounds; Nebraska rate in dollars per car.

IN THE CIRCUIT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEBRASKA.

OLIVER AMES, OAKES AMES, FRANK M. AMES, WILLIAM POWELL, MASON E. PIERSON BEEBE, CHARLES J. MERRILL, CHARLES F. CHOATE

vs.

THE UNION PACIFIC RAILWAY COMPANY, a corporation organized and existing under the laws of the United States, THE ST. JOSEPH & GRAND ISLAND RAILRAOD COMPANY, THE OMAHA & REPUBLICAN VALLEY RAILWAY COMPANY, THE KANSAS CITY & OMAHA RAILROAD COMPANY, all corporations organized and existing under the laws of the State of Nebraska; GEORGE H. HASTINGS, Attorney General; JOHN C. ALLEN, Secretary of State; EUGENE MOORE, Auditor of Public Accounts; JOSEPH S. BARTLEY, State Treasurer, and A. R. HUMPHREY, Commissioner of Public Lands and Buildings, all of whom are officers of the State of Nebraska and as such constitute its State Board of Transportation, WILLIAM A. DILWORTH, J. M. KOUNTZE and J. W. JOHNSON, Secretaries of said Board, and all citizens of said State.

THE JOINT AND SEPARATE ANSWER OF THE UNION PACIFIC RAILWAY COMPANY, THE ST. JOSEPH & GRAND ISLAND RAILROAD COMPANY, THE OMAHA & REPUBLICAN VALLEY RAILWAY COMPANY AND THE KANSAS CITY & OMAHA RAILROAD COMPANY.

These defendants now and all times hereinafter saving to themselves all and all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties and imperfections in said bill contained, for answer thereto or to so much thereof as these defendants are advised it is material or necessary to make answer to, answering do say:

1. They admit that The Union Pacific Railway Company was organized and that it exists under and by virtue of the laws of the Congress of the United States, the first one of which was entitled: "An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean and to secure to the government the use of the same for postal, military and other purposes," approved July 1st, 1862, and those several acts of the Congress of the United States supplemental thereto and amendatory thereof. Admit that The Union Pacific Railroad Company incorporated under the act first aforesaid built and completed its line of railroad from Omaha, in the State of Nebraska to Ogden, in the Territory of Utah, and that in the year 1880, the said railroad company by due proceedings in that behalf became consolidated with The Kansas Pacific Railway Company and The Denver Pacific Railway and Telegraph Company under the corporate name of The Union Pacific Railway Company and that it hath heretofore and still does so exist under and by virtue of the several laws aforesaid.

They admit that the map annexed to the complainants'

bill shows the lines of railroad of the said Union Pacific Railway Company. Admit that the St. Joseph & Grand Island Railroad Company is a railroad organized under the laws of the State of Kansas and Nebraska to acquire and that it did acquire a railroad running from St. Joseph in the State of Missouri to Grand Island in the State of Nebraska. Admit that a majority of the stock of said company is owned and held by said Union Pacific Railway Company; but deny that the railroad of the said St. Joseph & Grand Island Railroad Company is operated by the said Union Pacific Railway Company or that the affairs thereof are administered by said last named company. On the contrary they allege that the said St. Joseph & Grand Island Railroad Company operates its own lines of railroad under its own proper officers and managers. Admit that the said defendant, The Kansas City & Omaha Railroad Company was organized under the laws of the State of Nebraska to build and that it has built a certain line of railroad connecting with the lines of railroad of the St. Joseph & Grand Island Railroad Company and the Omaha & Republican Valley Railway Company. Admit that the Union Pacific Railway Company owns and holds a large proportion of its stock and bonds, but they allege that the said Kansas City & Omaha Railroad Company operates its own line of railroad through its own officers, agents and servants.

2. These defendants further answering admit that the Omaha & Republican Valley Railroad Company was organized under the laws of the State of Nebraska for the purpose

of building lines of railroad in this state connecting with the lines of railroad of the Union Pacific Railway Company, but deny that the Union Pacific Railway Company caused the said Omaha & Republican Valley Railroad Company to be so organized. Admit that the lines of railroad delineated upon said map were built by the several railroads named as follows: The main line of the Union Pacific Railway Company from Omaha to Ogden by said railway company; the St. Joseph & Grand Island Railroad Company's lines of railroad by the predecessor of said railroad company; the Omaha & Republican Valley Railroad Company lines of railroad by the Omaha & Republican Valley Railroad Company and the Omaha & Niobrara Railroad Company, the predecessors of said Omaha & Republican Valley Railroad, and not otherwise.

The said Union Pacific Railway Company, however, owns and holds all of the stock except a very few shares thereof, and substantially all of the bonds of the said Omaha & Republican Valley Railroad Company, and the lines of railroad of the said Omaha & Republican Valley Railroad Company are operated in connection with the lines of railroad of the said Union Pacific Railroad Company. The said Kansas City & Omaha Railroad Company's lines of railroad were built by said company, the ownership of the stock and bonds thereof being as hereinbefore admitted, and all of the said railroad companies are operated harmoniously together and form and constitute a part of a system of railroads operated under the name and style of the Union Pacific System.

3. These defendants further answering say, that they are directly advised and believe it to be true, that complainants at the time of the commencement of this suit and for six months and more before said time had been stockholders of said Union Pacific Railway Company, and that their holdings of stock therein amounted to as much and more than that stated by the said complainants' bill. These defendants severally admit further that the individual defendants to complainants' bill are the qualified officers of the State of Nebraska, occupying the several public offices named in the third paragraph of complainants' bill, and pretending and alleging the passage of the act of the legislature of the State of Nebraska in the third paragraph of said complainants' bill mentioned and specified. Admit further that the members of said State Board of Trnsportation have threatened that they will put in action all the powers conferred upon them under the said acts of the legislature in said third paragraph of complainants' bill mentioned and alleged, and they will do each and all of the acts alleged and threatened to be done by said Board of Transportation and its members as alleged in the third paragraph of said complainants' bill. They say they are informed and verily believe and upon such information and belief admit the Attorney General and the other officers of the said Board of Transportation will proceed in the manner and to the effect and end as complainants' have alleged in said third paragraph of their said bill.

4. These defendants further admit that for many years

the earnings of the roads of the Union Pacific Railway Company have not been sufficient to more than pay their operating expenses and fixed charges. Admit that complainants and the other stockholders of the said Union Pacific Railway Company have not in any way received from said company dividends or other returns upon the stock held by them in said company. They further admit that neither the railroads of the Omaha & Republican Valley Railway Company, the St. Joseph & Grand Island Railroad Company, nor the Kansas City & Omaha Railroad Company have for years past earned their operating expenses and fixed charges. Admit that the Union Pacific Railway Company itself on its main line of railroad has not earned more than will cover operating expenses and fixed charges. They say further that the railroad of the Omaha & Republican Valley Railway Company has not since its construction, nor except in two years, earned more than its operating expenses and taxes, and that for the two years referred to the amount of money earned by said railway company over and above its operating expenses and taxes was, in one year, the sum of about $9.20 per mile of its railroad, and in the other year about $25.00 per mile of its railroad; so these defendants say, it is true the lines of railroad of the Omaha & Republican Valley Railroad Company have not of themselves directly returned to the persons owning said railroads and the bonds of said railroads any interest whatever. These defendants admit that if the lines of railroad of the Union Pacific Railway Company proper were detached from the lines of rail-

road of the other defendants herein and other railroads similarly owned, operated and controlled, its earnings would not be sufficient to yield to its stockholders more than two per cent after paying operating expenses and fixed charges, and it believes its said earnings would not yet then be able to return to its stockholders any return whatever by way of dividends upon stock.

5. These defendants for answer to the fifth, sixth, seventh and eighth paragraphs of complainants' bill, each respectfully submits to the Court the said pretended act of the legislature of the State of Nebraska, commonly known as House Roll No. 33, and state that they believe the allegations of and concerning the practical applications and effect of the terms and provisions of said House Roll No. 33 would be as alleged by complainants in said several paragraphs of their bill.

6. These defendants further admit that by the act of Congress under which the said Union Pacific Railway Company is so organized and exists, the Congress of the United States has reserved to itself the sole power of fixing and making rates for the transportation of passengers and freight over the lines of railroad of said company, reference being had to said act itself for the definition and limitation of the powers of the railway company and of the Congress as to the making and enforcing tariffs for the carriage of passengers and property over and upon its lines of railroad.

7. These defendants further admit that all of the railroads operated in harmony with the railroad of the Union

Pacific Railway Company and in connection therewith as the Union Pacific System, are so constructed and operated as to form one connected, continuous line, with regulations for the management and control of trains, for the conduct of its business and for the establishment of tariffs, rates and schedule of trains, time and speed, as nearly as may be common to all without regard to state boundaries, without change of guage of tracks or stoppage or interruption of traffic, and that the carriage of goods and passengers from points on one railroad to points on another is treated as one continuous carriage from the place of shipment to destination, and that traffic originating in one state consigned to another state, and traffic beginning and ending in the same state, is conducted and carried in the same trains and cars without any discrimination. These defendants admit that the rates and charges prescribed by said pretended House Roll No. 33 are one-fifth, and they allege that they are even thirty per cent or more less than those heretofore and now charged by these defendant companies for the same service, so that by the reduction of rates prescribed and pretended to be made by said bill the citizen desiring carriage for his property in the interior of the State of Nebraska to a point beyond is invited to and will ship the same on the company's lines to a point on the Missouri River and thence reship the same to destination on some one of the roads connecting with The Union Pacific road to destination, and the same mode of

business may be and can be followed upon shipments into this state from the east.

8. These defendants admit and believe that the intimate and necessary relations of interstate and local traffic and of the rates of charges thereon are demonstrated by the methods of those charged with making such rates when not acting under the constraint of arbitrary rules such as are prescribed by House Roll No. 33. Such officers of the defendant company do not and never had acted upon a consideration of one of those two classes taken by itself, but they have always acted upon a consideration of all the conditions of both, and what is true of them is true of the same officers of all other great interstate systems. These defendants are advised and believe, and they therefor admit and aver, that said act of the legislature of the State of Nebraska, referred to as House Roll No. 33, violates the provisions of the constitution of the United States in the respects in said complainants' bill alleged.

9. These defendants further admit that the line of railroad of the said Kansas City & Omaha Railroad Company has not, from the time of the construction thereof, about the year 1887, produced revenue or earnings enough to pay the operating expenses, taxes and fixed charges thereon. That said, The St. Joseph & Grand Island Railroad Company's railroad has not been able from the earnings thereof to raise revenue enough to satisfy and discharge its obliga-

tions for the operating expenses, taxes and fixed charges thereon.

10. These defendants, further answering say, that the lines of railroad of these defendants have at all times been managed, operated and conducted prudently and economically so as to earn and obtain therefrom as large earnings and returns as possible, reasonably and fairly under the then established rates, tolls and charges, having reference to maintaining the property so that it could be safely, economically and prudently operated so as to meet the demands made upon it to serve the public and to carry and transport the persons and property tendered to it for transportation over its lines in and through the State of Nebraska to points beyond its borders. Yet these defendants say, that notwithstanding such management and operation, the earnings and returns to the several roads have not in any year yielded to the stockholders of said railroads or either or any of them a fair, or any return on their stock investments on the lines of said railroads in this state, and in many of the years have not returned any interest upon the bonds of some of the said railroads as hereinbefore alleged.

11. These defendants further say and allege that under the provisions of said House Roll No. 33, it cannot reasonably be expected that there would be any increase in the gross amount of business tendered to or coming to these defendants or any of them. That there are no local conditions which would promise an increase of local or through business in the state of Nebraska by and under which the

defendant railway Companies or any of them would be compensated by the loss of the revenue upon the business of the roads as heretofore carried and existing.

12. These defendants admit and aver upon information and belief that said House Roll No. 33 was not read at large on three different days in each house. Admit that the bill and all of the amendments thereto were not printed before the vote was taken upon the final passage thereof in either house of the Legislature. These defendants submit that said House Roll No. 33 contained more than one subject. These defendants also submit that said House Roll No. 33 does not by its terms claim or pretend to repeal the former acts of the legislature of the State of Nebraska respecting the regulation of railroads, and particularly an act entitled "An act to regulate railroad corporations and prevent unjust discrimination, provide for a Board of Transportation, etc." passed in 1887; and submit that said act as in many other respects is in many other respects in violation of the express terms and conditions of the constitution of the State of Nebraska as well as the constitution of the United States. These defendants say that they are informed and believe and admit the allegations of the bill in respect thereto, that many changes in the terms and phraseology of the said bill were made in violation of the constitution of this state so that the said House Roll No. 33, as the same came to and was approved by the Governor of the State of Nebraska, was not the same bill which passed either or both of the houses of the Nebraska legislature.

13. These defendants further say, that they admit the demand of the complainants made upon the president of the said Union Pacific Railway Company, who was also the president of the other defendant companies herein as alleged in complainants' said bill.

14. These defendants further answering say, that the operating and managing officers of these defendant companies fearing the pains and penalties provided by the terms of said House Roll No. 33 in case of its violation and being unwilling to submit themselves to the terrors of a multiplicity of suits for such penalties, were about to put in force upon each and every of the lines of railroad of these defendants in this state all and singular of the rates prescribed by said House Roll No. 33, and they had caused to be printed and were in the act of distributing the tariff sheets showing and adopting the said rates and charges prescribed by said House Roll No. 33 at the time of the service of the writ of injunction herein; that they were moved to this course solely by the fear of incurring a multitude of liabilities under the terms and conditions of the said act, which, in case the said act in its several terms and provisions should be enforced against them would be ruinous and would have amounted to a complete and absolute confiscation of the properties of the said railroads within a very short time, and not because they at any time believed said act to be valid, just or reasonable, or within the powers of the legislature of the State of Nebraska, nor yet to be a just and reasonable exercise of any power conferred upon said legislature.

15. These defendants further say, that said tariff sheets lastly above named had been prepared by the said defendant companies, had been printed, and were in the course of distribution to the various agents of the said defendant companies in this state and elsewhere and would have been put in force upon the first day of August, 1893, had it not been for the injunction herein.

16. These defendants not only admit but expressly allege that the bill filed by the complainants herein was not exhibited by or through any collusion with either of the defendant railway companies, their officers, directors or servants for any purpose of reason whatever.

And these defendants deny all and all manner of unlawful combination and confederacy wherewith they are by the said bill charged, without this, that there is any other matter, cause or thing to the said complainant's bill of complaint contained, material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of these defendants, all which matters and things these defendants are ready and willing to aver, maintain and prove, as this Honorable Court shall direct; and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf sustained.

By W. R. KELLY,

Solicitor for said Defendants.

IN EQUITY.

To the Honorable, the Judges of the Circuit Court of the United States for the District of Nebraska:

Oliver Ames, Oakes Ames, Frank M. Ames, William Powell, Mason E. Pierson Beebee, Charles J. Merrill and Charles F. Choate, all of the City of Boston, in the State of Massachusetts, and citizens of said State, suing, not only on their own behalf but on the behalf of all others, stockholders of the Union Pacific Railway Company, a corporation organized and existing under the laws of the United States, bring this their supplemental bill of complaint against Silas H. H. Clark of the City of St. Louis, in the State of Missouri and a citizen of said State, Oliver W. Mink of the City of Boston, in the State of Massachusetts and a citizen of said State, and E. Ellery Anderson of the City and State of New York and a citizen of said State, and thereupon your orators complain and say:

I. On the 29th day of July last past your orator exhibited before your honors in this Honorable Court, their certain bill of complaint impleading as defendants therein, the Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company and the Omaha & Republican Valley Railway Company, both corporations organized and existing under the laws of the State of Nebraska, George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph F. Bartley, State Treasurer, and A. R. Humphrey,

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Commissioner of Public Lands and Buildings, all of whom are officers of this State, and as such constitute its Board of Transportation, citizens of said State, William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board, and all citizens of said State.

II. In and by said bill your orators complained and said that by an act alleged to have been passed by the legislature of the State of Nebraska at its session of 1893, in said bill named and described as House Roll 33, it was provided that the railroad companies owning and operating railroads in said state should not charge for the carriage of freight over their respective roads, rates in excess of those named in said act and that for divers and sundry reasons therein alleged, the said act violated the Constitution of the United States and the Constitution of the State of Nebraska and was therefore void. That the said objections to the said act to the contrary notwithstanding, the Board of Transportation of said state and the members thereof were about to exercise all of the powers and functions conferred upon them in that behalf to compel the said companies to reduce their rates of charge for the carriage of freight to those prescribed in said act; and in and by said bill your orators prayed that the defendants therein be enjoined from making or publishing a schedule of rates to be charged by said defendant companies and for the transportation of freight on and over their roads in Nebraska from one point to another therein, whereby such rates should be reduced to and below those prescribed by said House Roll 33, and from reducing their

said charges from rates now charged by them to those prescribed in said act or in any wise obeying, observing or conforming to the provisions, commands, injunctions and prohibitions of said alleged act and that the said Board of Transportation be in like manner enjoined from entertaining, hearing or determining any complaint to it against said company for or on account any act or thing by said companies, their officers, servants, agents, employees, done, suffered or omitted, which may be forbidden or commanded by said alleged act, and from instituting or prosecuting or causing to be instituted or prosecuted any action or proceeding, civil or criminal, against said companies or either of them for any act or thing by them or either of them, or the officers, agents, servants or employees of either of them, done, suffered, or omitted, which may be forbidden or commanded by said act, particularly for reducing their present rates of charges for transportation of freight to those prescribed in said act and that the said Attorney General be in like manner enjoined from bringing, aiding in bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action or indictment against said companies for or on account of any action or omission on their part commanded or forbidden by the said House Roll 33, and should any county attorney threaten to bring or should he bring any such action or proceeding, then and in that case his name be inserted in the said bill and he be at once in like manner enjoined from instituting or prosecuting or cause to be instituted or prosecuted any such actions or pro-

ceeding, and that it be by the decree of your honors declared that the said alleged act is repugnant to the provisions of the Constitution of the United States and the Constitution of the State of Nebraska, and that the proceedings of the legislature of said state in the passage of said act were contrary to the constitution of said state and were ineffectual to pass or enact the said roll as a law and that it be decreed that the injunction therein prayed for be perpetual and for all other equitable and necessary relief.

III. Upon the filing of the said bill on the day first aforesaid, the said Court allowed an order restraining and enjoining the defendant as prayed for in the said bill.

IV. On the 20th day of August last past, the said George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board of Transportation, filed their general answer to the said bill, but the said railway companies have not answered the same, although they were duly served with subpœna on the day of the filing thereof.

V. On the 13th day of October, instant, Oliver Ames second and Samuel Carr, Executors of the last will and testament of Frederick L. Ames, deceased, and Peter B. Wycoff, and Edwin F. Atkins, exhibited their certain bill of complaint in this Honorable Court against The Union Pacific Railway Company, and on the same day the defendants in

this supplemental bill of your orators, Silas H. H. Clarke, Oliver W. Mink and E. Ellery Anderson, were appointed Receivers of that Company and on that day took possession of the property thereof and under the order of said Court in that behalf, are now operating its property.

VI. In order to the effectual prosecution of the original bill of your orators exhibited as in the first paragraph is alleged, it is necessary that the defendants in this supplemental bill be made parties to the said suit and impleaded therein as defendants, to the end that the relief in the said original bill prayed against the said Union Pacific Railway Company, may be extended to and operative upon its said Receivers, and that the injunction hereinbefore mentioned be extended to them, restraining them as in the said original bill is prayed.

TO THE END THEREFORE that the said defendants, Silas H. H. Clark, Oliver W. Mink and E. Ellery Anderson may answer all and every the matters and things hereinbefore charged by way of supplement and also the original bill of your orators and that your orators may have the full benefit of the said suit and proceedings against them, and that they may have such and the same relief against them as in and by the said original bill is prayed against the Union Pacific Railway Company, and that they may be restrained by the injunction of this Honorable Court as the said company has heretofore been restrained and that your orators may have all such further and other relief in the premises as the circumstances of their case shall require and to your Honors shall seem meet.

May it please your Honors to grant unto your orators not only the writ of injunction issuing out of and under the seal of this Honorable Court directed to the said defendants Silas H. H. Clark, Oliver W. Mink and E. Ellery Anderson, as Receivers of the Union Pacific Railway Company as in the said original bill is prayed and as is hereinbefore stated, but also the writ of subpœna issuing in like manner and directed to the said defendants, commanding them that at a day therein to be inserted, they appear in this Honorable Court and then and there answer the said original bill and this supplemental bill and stand to perform and abide such order and decree as to your Honors shall seem meet and equitable.

And your orators shall ever pray, etc.

J. M. WOOLWORTH,

Solicitor for Plaintiffs and of Counsel.

DISTRICT OF NEBRASKA, SS.

James M. Woolworth, being duly sworn, says he is the solicitor of the plaintiffs in the foregoing supplemental bill; that he has read the said bill and knows the contents thereof and the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

JAMES M. WOOLWORTH.

Subscribed in my presence and sworn to before me, this 17th day of October, 1893.

[SEAL.] FANNIE M. PRATT,

Notary Public.

IN THE UNITED STATES CIRCUIT COURT, DISTRICT OF NEBRASKA.

The replication of Oliver Ames, Oakes Ames, William Powell, Mason E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, all of the City of Boston, in the State of Massacusetts and citizens of said state, suing not only on their own behalf, but on behalf of all others similarly situated, plaintiffs to the answer of George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, defendants.

These repliants saving and reserving to themselves now and at all times hereafter, all and all manner of benefit of advantage of exception, which may be had or taken to the manifold insufficiencies of the said answer for replication, thereunto say that they will aver, maintain and prove their bill of complaint to be true, certain and sufficient, in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue and insufficient, to be replied unto by these repliants, without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, and not herein or hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true, all which matters and things these repliants are, and will be ready to aver, maintain and prove, as this Honorable Court shall direct, and humbly pray, as in and by their said bill they have already prayed.

J. M. WOOLWORTH,

Solicitor for Complainant.

* * * * * * * *

Thereupon afterwards, at the November term of said Court, on
ie 23rd day of November, 1894, the following proceedings were
done in said case as appear of record on folio 222 Journal "T"
Court, to-wit:

mes, Oakes Ames, Frank M. Ames, William Powell Mason, E.
ierson Beebe, Charles J. Merrill, Charles F. Choate, suing as
ell on their own behalf as on the behalf of all others similarly
uated,

Q"

vs.

on Pacific Railway Company, The St. Joseph & Grand Island
ailway Company, The Omaha & Republican Valley Railway
ompany, The Kansas City & Omaha Railway Company, S. H
. [H.] Clark, Oliver W. Mink, E. Ellery Anderson, John W.
oane & Frederick R. Coudert, Receivers of the said Union Pa-
ic Railway Company, George H. Hastings, Attorney General,
hn C. Allen, Secretary of State, Eugene Moore, Auditor of
ublic Accounts, Joseph F. Bartley, State Treasurer, and A. R.
mphrey, Commissioner of Public Lands and Buildings, all of
State of Nebraska and constituting its Board of Transporta-
n, and William A. Dilworth, J. M. Kountze and J. W. John-
Secretaries of said Board.

use came on to be heard upon the pleadings, proofs and exhib-
herein at the May Term of this Court before the Honorable
Brewer, one of the Justices of the Supreme Court of the
ates, assigned to the Eighth Judicial Circuit, and Elmer S.
nited States District Judge for the District of Nebraska, and
d by counsel.

And thereupon said Judges took the matter to be considered by
m, and on the——day of November instant, the opinion of
Honor Judge Brewer was filed in the Clerk's office, and there-
ordered, adjudged and decreed as follows:

e said Railroad companies and each and every of them, and
ers be perpetually enjoined and restrained from making or
a schedule of rates to be charged by them or any or either of
he transportation of freight on and over their respective roads
te from one point to another therein, whereby such rate shall
to those prescribed by the Act of the Legislature of this
d in the bill filed therein, "House Roll 33" and entitled "An
late railroads, to classify freights, to fix reasonable maximum
charged for the transportation of freight upon each of the
the State of Nebraska, and to provide penalties for the vio-
his act," Approved April 12, 1893, and below those now
said companies or either of them or their receivers, or in any
ng, observing, or conforming to the provisions, commands, in-
nd prohibitions of said alleged act; and that the Board of

Transportation of said State and the members and secretaries of said Board be in like manner perpetually enjoined and restrained from entertaining, hearing or determining any complaint to it against said Railway Companies or any or either of them or their receivers, for or on account of any act or thing by either of said companies or their receivers, their officers, agents, servants, or employees, done, suffered or omitted which may be forbidden or commanded by said alleged act, and from instituting or prosecuting or causing to be instituted or prosecuted any action or proceeding civil or criminal against either of said companies or their receivers for any act or thing done, suffered or omitted, which may be forbidden or commanded by said act, and particularly from reducing its present rates of charges for transportation of freight to those
2116 prescribed in said act, and that the Attorney General of this State be in like manner enjoined from bringing, aiding in bringing or causing to be brought, any proceeding by way of injunction, mandamus, civil action or indictment against said companies or either of them or their receivers for or on account of any action or omission on their part commanded or forbidden by the said act. And that a writ of Injunction issue out of this Court and under the seal thereof, directed to the said defendants, commanding, enjoining and restraining them as hereinbefore set forth, which injunction shall be perpetual save as is hereinafter provided.

And it is further declared, adjudged and decreed that the act above entitled is repugnant to the Constitution of the United States, forasmuch as by the provisions of said act, the said defendant railroad companies may not exact for the transportation of freight from one point to another within this State, charges which yield to the said companies or either of them, reasonable compensation for such services.

It is further ordered, adjudged and decreed that the defendants, members of the Board of Transportation of said State may hereafter when the circumstances have changed so that the rates fixed in the said act shall yield to the said companies reasonable compensation for the services aforesaid, apply to this Court by supplemental bill or otherwise as they may be advised for a further order in that behalf.

It is further ordered, adjudged and decreed that the plaintiffs recover of the said defendants, their costs to be taxed by the Clerk.

O. K. as to form.

JNO. L. WEBSTER.

The foregoing decree is entered in accordance with the opinion of Justice Brewer now on file in this case.

23 Nov. 1894. (Signed) ELMER S. DUNDY, Judge.

2117 Thereupon afterwards, to-wit:—On the 2nd day of January, 1895, A Petition praying an Appeal was filed in said case, which said Petition Praying an Appeal is in the words and figures following, to-wit:—

In the Circuit Court of the United States Within and for the District of Nebraska.

Oliver Ames, Oakes Ames, Frank M. Ames, William Mason Powell, E. Pierson Beebe, Charles J. Merrill, Charles E. Choate, suing as well on their own behalf as on behalf of all others similarly situated,

59 "Q" vs.

The Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railway Company, The Kansas City & Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane, and Frederick R. Cloudert, Receivers of the said Union Pacific Railway Company, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. W. Kountz, and J. W. Johnson, Secretaries of said Board.

PETITION PRAYING AN APPEAL.

Now come George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. W.
2118 Kountz and J. W. Johnson, Secretaries of said Board, defendants in the above entitled cause, and complaining of the plaintiff say:—

That on the 23rd day of November, 1894, said plaintiffs recovered a judgment and decree against these defendants herein in said cause and in said Court, in which among other things it was decreed that these defendants be enjoined and restrained from entertaining, hearing or determining any complaint against said defendant railway Companies or either of them or their receivers for, or on account of any act or thing by either of said companies or their receivers, their officers, agents, servants, or employees done, suffered or omitted which may be forbidden or commanded by an Act of the Legislature of the State of Nebraska entitled "An act to regulate railroads, classify freight, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this Act," Approved April 12th, 1893.

And which said decree these defendants were further enjoined from instituting or prosecuting, or from causing to be instituted or prosecuted, any action or proceeding, civil or criminal, against either of said railway companies or their receivers for any act or thing done, suffered or omitted which may be forbidden or commanded by the said Act, and particularly from reducing its present rates of charges for transportation of freight to the rates prescribed in said Act.

And in which said Judgment and decree the Attorney General of the State of Nebraska, was further enjoined from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action, or indictment against any or either of said Railway Companies or their receivers for or on account of any action or omission on their part commanded or forbidden by the said Act.

2119 And in which said judgment and decree was adjudged and decreed that the said Act above mentioned is repugnant to the Constitution of the United States, in the said railway Companies, may not under its provisions exact rates for the transportation of freight which yield to the companies reasonable compensation for such service.

And these defendants allege that they were prejudiced by the various orders, judgments and decrees, and that there is error in the proceedings of the Court by which said judgment and decree was obtained and that the said judgment and decree is erroneous in matters and things more particularly shown by the Assignment of Errors filed herewith, and by the record in said cause.

And by reason of said errors the said defendants pray that they may be allowed to appeal from said judgment and decree of said Court in said cause to the United States Circuit Court of Appeals for the Eighth Circuit, and that a transcript of the record and proceedings duly authenticated may be sent to said Court of Appeals, whereby said judgment and decree may be reversed and whereby these defendants may be given such other and further relief as may be just and proper.

George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board.

Jno. L. Webster, Geo. H. Hastings,

By W. A. DILWORTH,
Their Solicitor.

Appeal allowed as prayed January 2, 1895.

ELMER S. DUNDY, Judge.

Upon the back of said petition praying for appeal are endorsements in the words and figures following, to-wit:

2120 Docket 59, No. Q. U. S. Circuit Court, District of Nebraska. Oliver Ames et al., Plaintiffs, vs. The Union Pacific Railway Co. et al., defendants. Petition praying an appeal. Filed Jan. 2, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Sol. for Defendants.

2121 Thereupon afterwards, to-wit: On the 2d day of January, 1895, Assignment of Errors was filed in said case, which said Assignment of Errors is in the words and figures following to-wit:

In the Circuit Court of the United States Within and for the District of Nebraska.

Oliver Ames, Oakes Ames, Frank M. Ames, William Mason Powell, E. Pierson Beebe, Charles J. Morrill, Charles E. Choate, suing as well on their own behalf as on behalf of all others similarly situated,

59 "Q" vs.

The Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, the Omaha & Republican Valley Railway Company, the Kansas City & Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Deane, and Frederick R. Coudert, Receivers of the said Union Pacific Railway Company, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. W. Kountz and J. W. Johnson, Secretaries of said Board.

ASSIGNMENT OF ERRORS.

Come now George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. W. Kountz and J. W. Johnson, Secretaries of said Board, defendants, and say there is manifest error in the record of the proceedings and decree in the above entitled cause in this, to-wit:

2122 1. Said Court erred in that part of the decree wherein it ordered and decreed that said Railway Companies be perpetually enjoined and restrained from making or publishing a schedule of rates to be charged by them for the transportation of freight on and over their respective roads in this State from one point to another therein, whereby such rates shall be reduced to those prescribed by the act of the Legisla-

ture of the State of Nebraska entitled "An Act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this Act" approved April 12th, 1893.

2. That the said Court erred in that part of the decree wherein it ordered and decreed that the defendant railway companies be enjoined and restrained from reducing the rates below those now charged by said companies or either of them, or their receivers, or from in anywise obeying, observing or conforming to the provisions, commands, injunctions and prohibitions of said Act of the Legislature of Nebraska.

3. That the said Court erred in that part of its judgment and decree wherein it decreed that the Board of Transportation of the State of Nebraska, its members and Secretaries, be perpetually enjoined and restrained from entertaining, hearing or determining any complaint made to it against said railway companies for or on account or any act or thing done, suffered or omitted by said companies, their officers, agents or servants, which may be forbidden or commanded by said Act of the Legislature of the State of Nebraska.

2123 4. That said Court erred in that part of its judgment and decree wherein it adjudged and decreed that the Board of Transportation for the State of Nebraska be perpetually enjoined and restrained from instituting or prosecuting or causing to be instituted or prosecuted, any action or proceeding against either of said companies for anything by them done, suffered or omitted or which may be forbidden or Commanded by the said Act of the Legislature of the State of Nebraska.

5. For that the said Court erred in said judgment and decree wherein it ordered and decreed that the Board of Transportation be perpetually enjoined and restrained from reducing the present rates of charges for transportation of freight by the defendant railway companies to those rates prescribed in said Act of the Legislature of the State of Nebraska.

6. That the said Court erred in its said judgment and decree in that part thereof wherein it adjudged and decreed that the Attorney General of the State of Nebraska be in like manner perpetually enjoined and restrained from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action, or indictment against said Railway Companies or either of them for or on account of any action or omission on their part, commanded or forbidden by the said Act.

7. That the said Court erred in that part of its judgment and decree wherein it is adjudged and decreed that the said Act of the Legislature of the State of Nebraska is repugnant to the Constitution of the United States.

8. That the Court erred in its said judgment and decree in that part thereof wherein it is adjudged and decreed that the said Act of the Legislature of the State of Nebraska forbade the railway Companies from

exacting for the transportation of freight from one point to an-
2124 other within the State charges which would yield to the companies reasonable compensation for such services.

George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation and William A. Dilworth, J. W. Kountz and J. W. Johnson.

By JNO. L. WEBSTER,
Their Solicitor.

Upon the back of said Assignment of Errors appear endorsements in the words and figures following, to-wit:—

Docket "Q" No. 59 U. S. Circuit Court, District of Nebraska. Oliver Ames et al., Plaintiff, vs. The Union Pacific Railway Co. et al., Defendants. Assignments of Errors. Filed Jan. 2, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Sol. for Defendants.

2125 The United States of America, To Oliver Ames, Oakes Ames, Frank M. Ames, William Mason Powell, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated, The Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, the Omaha & Republican Valley Railway Company, the Kansas City & Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane and Frederick R. Coudert, Receivers of the said Union Pacific Company, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this citation bears date, pursuant to an appeal allowed and filed in the Clerk's office of the Circuit Court of the United States for the District of Nebraska, wherein George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, are appellants and you are appellees, to show cause, if any there be, why the decree rendered against the said Appellants as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

2126 WITNESS, the Honorable Elmer S. Dundy, Judge of the Circuit Court of the United States for the District of Nebraska, this 10th day of January, in the year of our Lord eighteen hundred and ninety-five.

Seal of the United States Circuit Court, District of Nebraska.

ELMER S. DUNDY,
United States District Judge for the District of Nebraska.

2127 Services accepted for Receiver of Union Pacific, Jan. 14, '95. J. M. Thurston, Solicitor.

Service accepted for the Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, the Omaha & Republican Valley Railway Company and the Kansas City & Omaha Railway Company. W. R. Kelley, their Solicitor.

Docket Q. No. 59. U. S. Circuit Court, District of Nebraska. Oliver Ames et al, Plaintiff, vs. The Union Pacific R'y Co. et al, Defendant. Citation. Service admitted Jan'y 11, 1895. J. M. Woolworth, Sol. for Plff. Filed Jan. 15, 1895, Elmer D. Frank, Clerk. Jno. L. Webster, Attorney for Appellants.

2128 Thereupon afterwards, to-wit:—On the 10th day of January, 1895, A Cost Bond was filed in said case, which said Cost Bond is in the words and figures following, to-wit:

Know All Men by These Presents:—That we, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of the State of Nebraska, as principals, and Edward Rosewater and George B. Tzschuck as sureties are held and firmly bound unto Oliver Ames, Oakes Ames, Frank M. Ames, William Mason Powell, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated, the Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, the Omaha & Republican Valley Railway Company, the Kansas City and Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane, and Frederick R. Coudert, Receivers of the said Union Pacific Railway Company, in the full and just sum of Five Hundred be paid to the said Oliver Ames, Oakes Ames, Frank M. Ames, William Mason Powell, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated, The Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, the Omaha & Republican Valley Railway Company, The Kansas City & Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane, and Frederick R. Coudert, Receivers of the said Union Pacific Railway Company, their heirs, executors, administrators, or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents.

2129 Sealed with our seals, and dated this 19th day of January in the year of our Lord, one thousand, eight hundred and ninety-five.

Whereas, lately at the November Term, A. D. 1894, of the Circuit Court of the United States for the District of Nebraska, in a suit de-

pending in said court between Oliver Ames, Oakes Ames, Frank M. Ames, William Mason Powell, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated, complainants, and the Union Pacific Railway Company, the St. Joseph & Grand Island Railroad Company, the Omaha & Republican Valley Railway Company, the Kansas City and Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane, and Frederick R. Coudert, Receivers of the said Union Pacific Railway Company, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, respondents, decree was rendered against the said respondents, and the said George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, have obtained an allowance of an appeal from said Court to reverse the said decree in the aforesaid suit, and a citation directed to the said appellees citing and admonishing them to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the date of said citation.

2130 Now the Condition of the Above Obligation is Such, That if the said George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, all citizens of the State of Nebraska, shall prosecute said appeal to effect, and answer all damages and costs if they fail to make good their plea, then the above obligation to be void, else to remain in full force and virtue.

George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of the State of Nebraska, and constituting its Board of Transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board.

[Seal]

By JOHN L. WEBSTER,
Their Solicitor.

EDWARD ROSEWATER, [Seal]

GEO. B. TZSCHUCK, [Seal]

Approved by Elmer S. Dundy, Judge.

Upon the back of said Bond appear endorsements in the words and figures following, to-wit: Docket "Q," No. 59, U. S. Circuit Court, District of Nebraska. Oliver Ames et al., plaintiffs, vs. The Union Pacific Railway Co. et al., Defendants.

Cost Bond. Filed Jan. 19, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Attorney for Appellants.

* * * * * * * * *

Filed Jan. 24, 1895. John D. Jordan, Clerk.

n the Circuit Court of the United States

FOR THE DISTRICT OF NEBRASKA.

EORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, THOMAS J. CUSHING, T. LATHROP THORNDYKE, CHARLES P. GARDNER, AND HENRY LEE, HENRY L. HIGGINSON, GEORGE C. LEE, CHARLES FAIRCHILD, JAMES JACKSON, AND GARDNER M. LANE, CO-PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF LEE, HIGGINSON & COMPANY; HENRY A. COBB, ARTHUR ESTABROOK, CHARLES H. WATSON, CHARLES F. EDDY, ARTHUR SWEETSER AND FRANK L. BEEMIS, PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF BREWSTER, COBB & ESTABROOK; JOHN PARKINSON, A. TUCKER BURR, JOSEPH M. GOODALE AND WINTHROP M. BURR, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF PARKINSON & BURR, AND BENJAMIN R. WELD AND FRANCIS M. WELD, EXECUTORS OF THE LAST WILL AND TESTAMENT OF F. M. WELD, DECEASED,

Complainants.

VS.

IE CHICAGO & NORTHWESTERN RAILROAD COMPANY, FREMONT, ELKHORN & MISSOURI VALLEY, RAILROAD COMPANY, AND THE CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, GEO. H. HASTINGS, ATTORNEY GENERAL; JOHN C. ALLEN, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER; A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA; WILLIAM A. DILWORTH, . M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD, ALL CITIZENS OF SAID STATE OF NEBRASKA,

Defendants.

COPY OF PLEADINGS.

To the Honorable, the Judges of the Circuit Court for the District of Nebraska:

George Smith, of the City of London and Kingdom of Great Britain, and a subject of Queen Victoria of that kingdom, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson and Gardner M. Lane, co-partners, doing business under the firm name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles F. Eddy, Arthur Sweetser and Frank L. Bemis, partners, doing business under the firm name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, partners, doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased, all of the City of Boston, in the State of Massachusetts, and citizens of said state, bring this their bill of complaint, as well on their own behalf as on behalf of all others similarly situated, against The Chicago & Northwestern Railroad Company, a corporation organized and existing under the laws of the States of Illinois, Wisconsin and Iowa, and the Fremont, Elkhorn & Missouri Valley Railroad Company, a corporation organized and existing under the laws of the State

of Nebraska, and a citizen of said state, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company, a corporation organized and existing under the laws of the States of Minnesota and Nebraska, and a citizen of the last named state; George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska.

And thereupon your orator complains and says:

I.

The Chicago & Northwestern Railway Company, hereinafter called the Northwestern Company, was originally organized under the laws of the States of Wisconsin, Illinois and Iowa. About 1880 it caused a company to be organized under the laws of this state under the corporate name of the Fremont, Elkhorn & Missouri Valley Railway Company, hereinafter called the Fremont Company, which company built the several railroads which are delineated in black lines upon the map hereto annexed, marked Exhibit "A," and made a part hereof, the said Chicago & Northwestern Railway Company taking and holding, and it now holds, all the stock and bonds of the said Fremont Company and operates the roads in the name of that company. About

1880 the said Northwestern Company caused a company to be organized under the laws of the States of Minnesota and Nebraska under the corporate name of the Chicago, St. Paul, & Omaha Company, hereinafter called the Omaha Company, in whose name it acquired the roads delineated on said map in blue lines in this state, and the said Northwestern Company owns and holds all or nearly all the stock of the said company and operates said roads in the name of that company. The said Northwestern Company owns and operates several lines of road which run through the States of Illinois, Iowa, Wisconsin and South Dakota, and the same are delineated in blue lines upon the aforesaid map, and the said lines of the said company in those states connect with the road of the said Fremont Company and the Omaha Company, and the said roads of the three companies, and all of them, are operated together as one connected and continuous line, and they are largely engaged in interstate commerce.

II.

Your orators are and for six months and more last past have been stockholders of the said Chicago & Northwestern Railway Company, holding seven thousand shares of its capital stock, each of which shares is of the par value of one hundred dollars, and during the time aforesaid have been and are registered in its registry of stockholders. Your orators also own and hold the bonds of said company, secured by mortgages on its property to the amount of

$1,000,000 and over; the whole of said company's stock is distributed among and held by more than ten thousand persons and parties, for which reason it is impracticable to implead them all in this complaint to your Honors, and your orators are compelled to and do exhibit this their bill in behalf not only of themselves, but of all others stockholders of said company. By reason of the fact hereinbefore stated, that the stock of the said Fremont Company and Omaha Companies is all owned by the Chicago & Northwestern Railway Company, your orators are proportionately interested in the said Fremont and Omaha Companies and their property as much so as if the said Fremont and Omaha Companies in fact operated their property as a separate corporation, and your orators held their stock directly in them.

III.

The individual defendants in this bill of your orators are and for six months last past have been by virtue of the offices held by them as in the title of the said bill and hereinafter stated, members of the Board of Transportation of the State of Nebraska, which Board of Transportation was created and organized under an act entitled an act to regulate railroads, prevent unjust discrimination, provide for a Board of Transportation, and define its duties, and repeal Articles 5 and 8 of Chapter 72, entitled "Railroads," of the Revised Statutes, and all acts and parts of acts in conflict therewith, approved March, 1887; that is to say, the said Hastings is Attorney General, the said Allen is Secretary of

State, the said Moore is Auditor of Public accounts, the said Bartley is State Treasurer, the said Humphrey is Commissioner of Public Lands and Buildings of the said State, and as such are members of said Board, and the said Dilworth, Kountz and Johnson are and during the time aforesaid have been the secretaries thereof. And said defendants pretend and allege that at its last session the legislature of said state passed, and on the 12th day of April the governor approved an act entitled "an act to regulate railroads, classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act." And the said Board and the members thereof have threatened that they will, and unless restrained by the order and injunction of this Court, they will put in action its full powers under the two acts above entitled of inquiry, examination and determination against said defendant companies, and will require them to make, keep, publish and post so as to be conveniently inspected, in every one of their depots and stations, schedules showing the rates and charges for transportation of passengers and property, and the places upon their roads upon which the same will be carried, and the classification of freights, together with the terminal charges and rules and regulations which in any wise change, affect or determine any part of the aggregate of such rates and charges, and will entertain, hear and determine whatever complaints that may be made to it by any and all persons and parties alleging a violation by

said companies of any and every the commands, injunctions and prohibitions in the said two several acts above entitled contained, or neglect on their part to obey and observe the same, and upon such complaint will order and require said companies to comply with the provisions of the act secondly above entitled, which for convenience is hereinafter called House Roll 33, particularly by classifying freight to be carried on such road or roads, the rates of charge for the transportation thereof, as in the said act provided, and make, publish and post schedules of such rates and charges conformable to said act, and will upon each and every such order and requirement of said Board, apply to one of the courts of said state for an order of injunction or other process, mandatory or otherwise, to restrain said companies from further continuing the violation or disobedience of its said order or requirements, and enjoin the obedience of the same, and for writs of attachment and other processes out of said Court against said companies, their directors, officers or agents, to the end that such company, director, officer or agent be fined as in the act first above entitled provided, and will order the attorney general or the county attorneys of the counties through which the said roads or any of them may run, to institute a suit to compel said companies to comply with its said order, and also apply to the Supreme Court or such district court in the name of the state on the relation of said Board, for a writ of mandmus against said companies, to compel obedience to the order of said Board, and the said Board will also require the said attorney general

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and the county attorneys of the counties through which the said roads or any of them run, to prosecute the said companies for each and every act done or omitted by them commanded and forbidden by the said act, and seek to impose upon said companies the severe penalties prescribed in House Roll 33, and enforce the same against the property of said companies, which actions, proceedings and indictments will be very numerous, and if they shall be effectively prosecuted they will sweep away all the property of said companies.

The said attorney general has given notice that it is his purpose and the purpose of the said Board to enforce the said House Roll 33 promptly, vigorously and to the full extent of the powers conferred upon him and the said Board in that behalf by each and every of the proceedings mentioned and prescribed by the two acts above entitled against any and every railroad company in this state which shall in any wise do or omit what in the said act, or either of them, is commanded or forbidden; and personally to take charge of such proceedings and prosecute them to the full extent of the law, and so he will do unless restrained by order of injunction of your Honor as hereinafter prayed.

IV.

The act secondly above entitled, being House Roll 33, violates the provisions of the Constitution of the United States, which forbid any state to deprive any person of his property, without due process of law, or to deny to any person within its jurisdiction the equal protection of the law, or

pass a law impairing the obligation of contracts, or which interferes with commerce between the states. And your orators for themselves and all others, stockholders of said companies brings this their bill for the purpose of enforcing the provisions of the Constitution of the United States, above mentioned.

V.

Since the construction of the said roads, in this state, the administration of the affairs of said companies, upon and with reference to their whole system and particularly of the roads in this state, has been characterized by exceptional skill and judgment, and the returns from the business were all that the same could be made to render. No salaries have been allowed or paid to any of its officers or employes which were excessive or unreasonable or unusual; nor in the purchase of property or any other dealings of the said companies, have unnecessary or excessive sums been paid; and on the other hand, the most rigid economy has been exercised in all such matters. At no time since the said roads of the said Fremont and Omaha companies in this state were built, have the earnings therefrom yielded to your orator or its stockholders, or said company a fair return upon their capital; in no one year has such return equalled 5 per cent. upon the investment, and for two years last past, the said roads have not earned more than the necessary expenses of operating the same, and interest on its funded debt. And your orators and the other stockholders of the said companies have not during that time received from it

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any dividends arising from the earnings of said companies in this state. And it is certain that hereafter the earnings of said companies will not be increased.

VI.

The rates of charges fixed and prescribed by the said House Roll 33 reduce the rates on the average heretofore charged by the said companies, at least 20 per cent. And if the reductions sought to be enforced by said act are made, their net earnings arising from all business in this state and especially from freight business, will not pay operating expenses and fixed charges and will return nothing to your orators and others stockholders of of said companies, upon their capital invested in it, but on the other hand will leave said companies without money realized from their earnings necessary for the maintenance of their property, and the said act will operate a confiscation thereof, in violation of the constitutions, both of the United States and of this state, prohibiting the taking of property for public use without compensation, and without due process of law.

VII.

By the said House Roll 33 rates of charges are prescribed for transporting divers articles which are less than the average cost to said companies for such service, some of which are the following: all those included in classes "D" and "E" of the classification of freight made in said act; also wheat, flour, millet, flax seed, grains and mill stuffs,

lumber, coal hard and soft, lump and nut, pea and slack, which said articles are carried for a considerable distance; also all articles carried in small packages for short distances. Upon the face of the classifications in said act, of the several kinds of freight and of the schedule of rates for charging the same, there are divers inconsistencies inequalities and injustices. For the transportation of divers articles, the rates of charges prescribed in said act, are less for a certain distance than those prescribed for a shorter distance and for example your orators point out that the rate prescribed in House Roll 33, upon lumber, lath, shingles, doors, sash and blinds, per hundred pounds is for 85 miles 8 cents, while for from 90 to 105 miles it is 6 cents and for 110 and 115 miles it is 6¼ cents; and for 120 miles it is 7 cents; and for 125 miles it is 7½ cents, and for 130 miles it is 8 cents; and in all the instances above mentioned, rates fixed by said act are unreasonably low and do not afford the said companies reasonable compensation for their service in carrying said articles.

VIII.

The unreasonableness of the rates fixed by House Roll 33 appears from a comparison thereof with those allowed by law to companies similarly situated in other states. Hereto annexed is a table showing this comparison marked Exhibit "B" and made a part hereof.

IX.

In July and August 1891 the Board of Transportation prosecuted a thorough and exhaustive inquiry into the

reasonableness of the rates of charge for transportation of freight within this state by said company, and after hearing many parties upon one side and the other, and the evidence adduced by them respectively, and upon the report of the secretaries of said Board it rendered an elaborate opinion covering the whole matter in all its aspects and therein found and declared that the rates then in force in this state could not be reduced without doing violence to the business interests of the state and injuring the shipping and producing classes.

X.

The said House Roll 33 fixes and establishes rates of charge for the transportation of freight which are absolute and arbitrary. The same were made without consideration of such matters as were pertinent to the inquiry and are not subject to change except as hereinafter mentioned. Under the said act it cannot be permitted to said companies or other carriers of like character charged either in a civil action or in an indictment, with the violation of the provisions of said act, to allege or show that the rates fixed in said act are unreasonably low, or that the rates charged by said company or companies, were reasonable and just, although above those first described by the said act, and while by the terms of said act the said companies may bring an action in the Supreme Court against the state complaining that the schedule of rates prescribed in said act are unjust and unreasonable, yet, if therein the said Court be satisfied that the rates prescribed in said act are unreasonable,

it may order the said Board, to permit said company to raise its rates to any sum in the discretion of the Board, not above those charged on the first of January 1893. But upon the said Court no power is conferred authorizing it to determine what is a reasonable rate of charge for the transportation of freight by said company nor to adjudge what they will be permitted to charge.

Wherefore your orators say, that the question of the reasonableness of the rates fixed in and by said act is not subject of inquiry or determination in any proceeding to which said companies are parties, or in the courts of law, or upon fair and adequate inquiry. And therefore that the said act deprives said companies and your orators and others, their stockholders, of their property without due process of law, and deprives them of the equal protection of the law.

XI.

The Chicago, Rock Island & Pacific Railway Company is and for over twenty years has been a corporation organized and existing under the laws of the States of Illinois and Iowa, owning and operating a railroad running from Chicago, Illinois, to Council Bluffs, Iowa. On or about the first of January, 1889, it became a domestic corporation of this state, and between that date and the first of January, 1891, it built a railroad from Council Bluffs, in Iowa, to Denver, Colorado, save for three several short distances, where it obtained the running powers over the tracks of other companies. The line of said company is in close and active competition with

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certain of the lines of defendant company and with other roads between the Missouri River and Denver. Several such roads are parallel and near to that of the Rock Island Company, and have many common points therewith, and serve the same communities, and seek from them and do for them the same business, and their facilities to do such business and their ability to secure the same are substantilly equal. Nor in any of the circumstances and condition of such companies is there good reason of which the state and its authorities can take cognizance for any discrimination between them, and whatever rate of freight is prescribed for one, should be enforced against the other.

On or about the first day of January, 1889, the Pacific Short Line Railroad Company commenced the construction of a railroad designed to run from Sioux City, in Iowa, west through the State of Nebraska, and completed the work as far as O'Neill, in said state. The said railroad is and for one year last past has been owned and operated by the Sioux City, O'Neill & Western Railroad Company, a corporation organized under the laws of this state and said road is in close and active competition with the lines of said Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago & Northwestern Railway Company, operated together and for a great part of the distance parallel with and near to the roads of those companies, and the said roads have many common points and serve the same communities and seek from them and do for them the same business and their facilities to do such business and their ability to secure the

same are substantially equal; nor in any of the circumstances and conditions of the roads of the Sioux City, Omaha & Western Railroad Company and the line formed by the roads of the Fremont, Elkhorn & Missouri Valley Railroad Company and of the Chicago & Northwestern Railroad Company, is there good reason of which the state or its authorities can take cognizance for any discrimination between them and whatever rate of freight is prescribed for one should be enforced against the other. Nevertheless, in the said act it is provided that all railroads and parts thereof built since January first, 1889, should be exempt from the provisions of said act until December 31, 1899, which provision was inserted and incorporated and in the said act for discrimination in favor of the roads of the said Rock Island and Sioux City Companies, and against the companies defendant herein, so that said Rock Island and Sioux City companies can, but the said defendant and other companies cannot charge and receive compensatory rates for the transportation of freight on their respective lines by reason whereof the said defendant companies and their stockholders are deprived of the equal protection of the laws.

XII.

The said defendant companies railroads in this state and in other states as in the first paragraph in this your orator's bill described, form connected and continuous lines upon which trains, cars and engines, freight as well as passenger may run from one state into another without change

or interruption and upon regulation, tariffs of rates and schedules as to time and speed common to them all, so that carriage between any point on said lines in this state and another point on said lines in another state is treated as one continuous carriage from place of shipment to point of destination, and in such cars, trains and engines, business originating at points in one state destined to points in another state, and also business beginning and ending in this state, are carried on together in the same trains and cars without any discrimination or difference. The effect of the reduction called for by House Roll 33 is so great as to greatly reduce the rates on business beginning in this state and ending in another and beginning in another and ending in this state. And from the nature of the case the relations of interstate and local traffic and of the rates of charges thereon, are so intimate and necessary that a radical change of one, largely affects the other. And your orator submits that forasmuch as the Constitution of the United States has committed to congress the power to regulate commerce among the states and has withdrawn them from interference on the part of the states, the said company is not subject to the jurisdiction of the State of Nebraska, and that the said House Roll 33 is for that reason repugnant to the Constitution of the United States.

XIII.

The bill for the said alleged act, was on the 14th of January, 1893, introduced into the House of Representatives

of the Legislature of the State of Nebraska at its last session and was the subject of consideration, amendment and action upon several days, and on the 11th of March was declared passed that body, but the same was not read at large in that House on three different days, but was put upon its passage without being so read. In engrossing the said bill, divers radical changes were made therein, without the action or knowledge of the said House which erroneously engrossed bill, was transmitted to the Senate in which body the bill was the subject for consideration, amendment and action, but was not read at large on three different days, and was put upon its passage without being so read at which time the president of the Senate declared to the said body that the said bill ought not to be passed, because it had not been read at large on three different days, being returned to said House it was enrolled and the enrolled bill in many radical particulars differed from that passed by either of the two Houses in which form it was signed by the governor, so that the bill passed by one House was not passed by the other, and neither of the bills passed by the two Houses was ever signed by the governor, nor was that signed by him ever passed by the two Houses.

XIV.

The said House Roll 33 was amendatory of the act first above entitled, yet does not contain the sections of the former act amended, nor repeal those so amended.

XV.

The said House Roll 33 denies to the said companies the

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right to be heard in the Courts of said state, and further denies the right to allege in an action against them for damages, on account of a greater charge by them, or of an indictment against them therefor, by way of defense, that the charges actually made are just and reasonable, but imposes on the Supreme Court the administrative function of a preliminary inquiry whether the Board of Transportation may at its discretion increase the schedule of rates and on the other hand commits to said Board, the judicial question of the reasonableness of the rates fixed by said act. Which confusion of the powers and functions of the judicial and executive departments of the government is repugnant to the constitution of this state.

XVI.

On the —— day of July instant, and as soon as your orators learned the nature of House Roll 33, they addressed to Martin Hewitt, who is president of the said company, a letter of that date, calling his attention to the said act and pointing out several of the objections to the validity of the said act hereinbefor mentioned, and requested him to convene the board of directors of said Northwestern company to decline to put the rates prescribed by said act in force, and also to take steps to prevent the enforcement of said act against the said companies. It has not been practicable for the president of the company to convene a meeting of the board of directors, and the president of the said company has refused to comply with the request of your orators. Forasmuch as it is not practicable

to convene a meeting of the board of directors before the first of August next, when the said act will go into effect, and when the said companies will be liable to the penalties therein denounced against them if they do or fail to do what in the said act is commanded or forbidden, your orators submit that they ought not to be required to withhold their complaint to your Honors until the said board may be convened to take action in the premises. This bill is not exhibited by collusion with the said companies or its officers or directors for the purpose of giving jurisdiction to this Court of the questions therein by your orator raised, or which may be raised upon the said act. It has not been practicable for your orators to solicit the co-operation of other stockholders of the company, either in the application to the board of directors or in exhibiting this bill, in consequence of the necessity of immediate action in that behalf. And your orator pray that others may be admitted parties hereto as stockholders of the company if they desire to do so, they paying and undertaking to pay their share of the expenses of this suit.

XVII.

The number of county attorneys who, under the terms of said House Roll 33, may institute and prosecute proceedings against the said company for alleged violations of the provisions of said act is so large that it is impracticable to implead all of them, and for the purposes of this suit they are fairly represented by the attorney general.

XVIII.

Wherefore, your orator prays that the said defendants may if they can show why they should not have the relief therein prayed and that they answer this your orator's bill, according to the course and practice of the Court, but not under oath, the answer of each of them under oath being hereby expressly waived. And that the defendant companies, their officers, agents, servants and employes be, by the order and injunction of your Honors, enjoined from making, publishing or posting a schedule of rates to be charged by them for the transportation of freight on or over their roads in Nebraska from one point to another therein, according to the terms, provisions and commands of said House Roll 33, and from reducing their charges for such service, from the rates now charged by them to those prescribed by said act, and from obeying, observing or conforming to the commands, provisions, injunctions and prohibitions of said act or any thereof, and that the said Board of Transportation and the individual defendants be in like manner enjoined from entertaining, hearing or determining any complaint against said companies, for or on account of any act or thing by them or their officers, agents, servants or employes done, suffered or omitted, which may be commanded or forbidden by said act, and from instituting or prosecuting or causing to be instituted or prosecuted any action or proceeding, civil or criminal, against said companies for any act or thing by them or their officers, agents, servants or employes, done or omitted which may be forbidden or commanded by

said act, and particularly for not reducing the present rates of charges for transportation of freight to those prescribed in said act. And that said attorney general be in like manner enjoined from bringing or aiding in bringing or causing or advising to be brought, any proceeding by way of injunction or mandatory or other process or civil action or indictment against said companies for or on account of any action or omission on their part commanded or forbidden by said House Roll 33, and should any county attorney or any other person threaten to bring or should he bring any action or proceeding against said companies for or on account of the non-observance by them of the provisions of said act, then and in that case that his name be inserted in this bill as a defendant, and he be at once and in like manner enjoined from instituting or proseeuting or causing to be instituted or prosecuted such actions or proceedings or any of them, and that the injunction hereinbefore prayed be operative against him as if he were now here named and impleaded as a party hereto. And that it be by the decree of your Honors declared that the alleged act above entitled is repugnant to the provisions of the Constitution of the United States, and of the provisions of the State of Nebraska, for the reasons in that behalf hereinbefore assigned by your orators, and that the proceedings of the Legislature of this State, in the alleged passage of said act, were ineffectual for that purpose and were repugnant to the Constitution of said State. And that it be decreed that the injunction hereinbefore prayed be perpetual and that your orators have their costs

of this their bill and all such further relief as the circumstances require and is agreeable to equity and good conscience.

May it please your Honors to grant unto your orators, suing as well on their own behalf as on behalf of all others similarly situated, not only the writ of injunction issuing out of and under the seal of this Honorable Court, directed to the defendant, the Chicago & Northwestern Railroad Company, the Fremont, Elkhorn & Missouri Valley Railroad Company and the Chicago, Minneapolis, St. Paul & Omaha Railway Company, its officers, agents, servants and employes, George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation, and W. A. Dilworth, J. M. Kountz and J. W. Johnson, secretaries of said Board, commanding and enjoining them and their deputies, clerks and servants, as herein prayed, but also a writ of subpœna issuing in like manner and directed to the said defendants commanding them that at a day therein to be inserted, they appear before your Honors in this Honorable Court then and there to answer the premises, and stand to, perform and abide such order and decree as to your Honors shall seem meet and equitable. And your orator will ever pray, etc.

J. M. WOOLWORTH,
Solicitor for Plaintiffs and of Counsel.

DISTRICT OF NEBRASKA, SS.:

J. M. Woolworth, being duly sworn, says he is the solicitor for the plaintiffs in the above bill; that he has read the same and knows the contents thereof, and the same is true of his own knowledge, except as to the matters therein stated on information and belief; and as to those matters he believes it to be true. Said plaintiffs are absent from this district.

J. M. WOOLWORTH,

Subscribed and sworn to before me this 28th day of July, 1893.

FANNY M. PRATT,
Notary Public.

Exhibit "C".

Using the present rates, Chicago to Lincoln and Chicago to Omaha, and House Roll 33 rates beyond Omaha and Lincoln, the through rates will be as follows:

CHICAGO TO	BY WAY OF	CLASSES									
		Class 1	Class 2	Class 3	Class 4	Class 5	Class A	Class B	Cl ss C	Class D	Class E
Harvard	Lincoln	1.08	.89	.65	.52	.39	.47	.38	.32	.275	.24
	Omaha	1.12	.94	.72	.53	.45	.50	.38	.32	.255	.22
Hastings	Lincoln	1.09	.90	.67	.54	.44	.49	.39	.32	.275	.25
	Omaha	1.17	.98	.70	.56	.48	.53	.395	.330	.27	.225
Holdrege	Lincoln	1.22	1.03	.80	.60	.51	.56	.425	.365	.30	.255
	Omaha	1.30½	1.09	.86	.67	.595	.59	.455	.37	.295	.245
Superior	Lincoln	1.12	.94	.72	.56	.46	.51	.40	.34	.285	.25
	Omaha	1.23	1.03	.81	625	.52	.57	.405	.343	.28	.23
McCook	Lincoln	1.37	1.16	.915	.73	.61	.625	.495	.405	.325	.285
	Omaha	1.37	1.05	.935	.75	.635	.62	.505	.40	.32	.275
Present rates Chicago to	Lincoln	.80	.65	.46	.34	.28	.33	.28	.23	.205	.19
	Omaha	.75	.60	.42	.30	.25	.30	.25	.20	.175	.16

In the Circuit Court of the United States

FOR THE DISTRICT OF NEBRASKA.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, THOMAS J. CUSHING, T. LATHROP THORNDYKE, CHARLES P. GARDNER, AND HENRY LEE, HENRY L. HIGGINSON, GEORGE C. LEE, CHA ES FAIRCHILD, JAMES JACKSON, AND GARDNER M. J SE, CO-PARTNERS DOING BUSINESS UNDER THE FI NAME OF LEE, HIGGINSON & COMPANY; HENRY A. CO BB, ARTHUR ESTABROOK, CHARLES H. WATSON, CHARLES F. EDDY, ARTHUR SWEETSER AND FRANK L. BEEMIS, PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF BREWSTER, COBB & ESTABROOK; JOHN PARKINSON, A. TUCKER BURR, JOSEPH M. GOODALE AND WINTHROP M. BURR, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF PARKINSON & BURR, AND BENJAMIN R. WELD AND FRANCIS M. WELD, EXECUTORS OF THE LAST WILL AND TESTAMENT OF F. M. WELD, DECEASED,

Complainants.

VS.

THE CHICAGO & NORTHWESTERN RAILROAD COMPANY, FREMONT, ELKHORN & MISSOURI VALLEY, RAILROAD COMPANY, AND THE CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, GEO. H. HASTINGS, ATTORNEY GENERAL; JOHN C. ALLEN, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER; A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA; WILLIAM A. DILWORTH, J. M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD, ALL CITIZENS OF SAID STATE OF NEBRASKA,

Defendants.

ANSWER IN EQUITY.

To the Honorable, the Judges of the Circuit Court of the United States, for the District of Nebraska:

The joint and several answer of Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, officers of the State of Nebraska, and constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, the defendants now and at all times hereafter saving and reserving unto themselves all benefit and advantage of exception which can or may be had, or taken to the many errors, uncertainties, and other imperfections in the said complainants' said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as these defendants are advised is or are material or necessary for them to make answer unto, these defendants for answer say:

I.

True it is that said George H. Hastings is the Attorney General, John C. Allen is the Secretary of State, Eugene Moore is the Auditor of Public Accounts, Joseph S. Bartley is the State Treasurer and A. R. Humphrey is the Commissioner of Public Lands and Buildings, and are each duly qualified and acting, and constitute the Board of Transportation of the State of Nebraska, and that William A. Dilworth, J.

M. Kountz and J. W. Johnson are the Secretaries of said Board. But these defendants allege that they and each and all of them are officers and agents of said State of Nebraska and have no personal or pecuniary interest whatever in the event of this suit, or in the result of the several matters and things charged and set forth in said complainants' bill of complaint herein filed, and are not proper parties thereto, but that said bill of complaint should of right have been brought against the State of Nebraska, and not against these defendants, or either of them, and that the said State of Nebraska is the real party in interest, and that the said State of Nebraska hath not and doth not in any way whatever consent to the bringing of this action, and hath not and doth not submit in any way to the jurisdiction of said Court to hear and determine the several matters in difference charged and set forth in complainants' bill of complaint, and these defendants submit that under the eleventh amendment of the Constitution of the United States the courts of the United States are wholly without jurisdiction to try, hear and determine the several matters in difference charged and set forth in said complainants' bill of complaint, and that under the Constitution of the United States and the Constitution and Laws of the State of Nebraska said complainants have a full, complete and adequate remedy at law for all the matters alleged and set forth in said complainats' bill of complaint.

II.

Further answering, these defendants say that true it

is that said complainants herein are, and for six months last past have been, stockholders and bond owners of the said defendant, The Chicago & Northwestern Railway Company, but deny that the amount is as set forth and charged in said complainants' bill, but these defendants allege and charge the truth to be that soon after the passage and signing by the Governor of House Roll No. 33, commonly known as the Newberry Bill, which is mentioned and described in said complainants' bill of complaint, these complainants entered into a conspiracy to and with the said defendant railway companies and their officers and managers, whereby a plan was devised with the end in view to defeat the legislation so as aforesaid had and prevent the carrying into operation the said bill and the several provisions and commands thereof, and at the same time to avoid the penalties and forfeitures therein prescribed during the pendency of the litigation, and to have the same declared unconstitutional by a decree of this Court; and in order to give this Court jurisdiction thereof, said Chicago & Northwestern Railway Company, and its officers and managers did procure to be made a pretended demand upon the President and Board of Directors of the defendant railway companies that said officers should decline to put the rates prescribed by said House Roll No. 33 in operation in the State of Nebraska, and to test the constitutionality of said House Roll No. 33 in the courts. That said defendant railway companies pretended to refuse such demand; but these defendants aver that while said railway companies, their officers and

managers pretended to refuse such demands, or to accede to said requests, have in fact complied therewith; and the said railway companies defendants, still confederating and conspiring to and with said complainants, procured said complainants, and each of them, to institute this action in this Honorable Court, and to procure an order of injunction herein against the said railway companies to be issued out of this Court preventing and prohibiting said railway companies from putting into operation the rates mentioned and set forth is said House Roll No. 33, and from carrying into effect any of the provisions and requirements of said law.

III.

These answering defendants for further answer say they have no sufficient information to form an opinion as to whether the Chicago & Northwestern Railway Company owns all the stock and bonds of the Fremont, Elkhorn & Missouri Valley Railroad Company, and of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company, and therefore deny the same and leave the complainants to their proof in that regard. And these answering defendants further say that they have no sufficient knowledge to either affirm or deny that the Chicago & Northwestern Railway Company caused to be organized and constructed the Fremont, Elkhorn & Missouri Valley Railroad Company, and therefore deny the same, and leave the complainants to their proofs in that regard. And further answering say that the lines of railway within the limits of the State of Nebraska claimed to be owned and operated by the Chicago & North-

western Railway Company, are lines which have been constructed under and by virtue of corporations organized and existing under and by virture of the laws of the State of Nebraska, and all of which said lines yet have and maintain their original corporate names, and are in all respects as fully subject to the Constitution and the Laws of the State of Nebraska as if the Chicago & Northwestern Railway Company was in no manner interested in their ownership or operation or in their stocks or bonds, all of which hereinafter more fully appears.

IV.

That the Fremont, Elkhorn & Missouri Valley Railroad Company was chartered under the Laws of the State of Nebraska on or about the 20th day of January, 1891, and was afterward, about the 4th day of June, 1891, consolidated with the Wyoming Central Railway Company, and now owns and operates about 1,300.53 miles of road, including its main line and branches, and substantially all of which are within the limits of the State of Nebraska, and are as follows:

	Miles.
Omaha, Nebraska, to Casper, Wyoming	627.68
BRANCHES.	
Linwood, Nebraska, to Kansas State Line	124.14
Norfolk Junction, to Verdigre	54.04
Dakota Junction, Neb., to Pine St. Deadwood, Dak	144.88
Whitewood, Dakota, to Belle Fourche	21.19
Buffalo Gap, Dak., to Hot Springs, Dak	14.12
Irvington, Neb., to South Omaha, Neb	10.36
Pine St., Deadwood, Dak., to Ruby Basin, Dak	11.27
Portland Junction, Dak., to Portland Mine	2.41
Branches to mines of Ruby Basin Line	2.55
Branches to mines of Portland Main Line	
Total mileage of branches	672.85

And these answering defendants further say that the said Fremont, Elkhorn & Missouri Valley Railroad Company still is a domestic corporation of the State of Nebraska, and as such domestic corporation it still operates all the various lines last above set forth as such domestic corporations of the State of Nebraska, and under its said corporate name of the Fremont, Elkhorn & Missouri Valley Railroad Company, and as such corporation owns its own lines of road and equipment, and is managed by its own staff of officers, servants and employes.

V.

These answering defendants further say that the Chicago, St. Paul, Minneapolis & Omaha Railroad Company was a company organized about the first of June, 1880, by the consolidation of the Chicago, St. Paul & Minneapolis Railway Company and the North Wisconsin Railway Company, under the provisions of the statutes of the States of Wisconsin, Minnesota, Nebraska and Iowa, providing for the consolidation of railway companies. And these answering defendants further say by virtue of the fact of said consolidation last above set forth, the Chicago, St. Paul, Minneapolis & Omaha Railroad Company became, was and is a domestic corporation of the State of Nebraska, as is hereinafter more fully stated; that the Chicago, St. Paul, Minneapolis & Omaha Railroad Company now operates and in some manner or other controls the following lines of road within the State of Nebraska, to-wit: The Omaha & Northern Nebraska Railway Company, the Northeastern

Nebraska Railway Company, and the Covington, Columbus & Black Hills Railroad Company, all of which were Nebraska corporations having lines of road within the State of Nebraska, and that the mileage of said company within the State of Nebraska is as follows:

	Miles.
Omaha to Covington	123.66
Osborne Junction to Ponca	16.33
Emerson to Norfolk	46.50
Wakefield to Hartington	33.76
Wayne to Bloomfield	43.14
Total	262.79

That on or about the first day of June, 1880, the Chicago, St. Paul & Minneapolis Railway Company, a corporation of Wisconsin was consolidated with the Northern Wisconsin Railway Company, as heretofore stated, under the corporate name of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company, and which last named railroad company became and was a domestic corporation of the State of Nebraska, and became subject to the same liabilities and restrictions as were and are imposed by the Laws of the State of Nebraska upon other railroad companies, and became possessed of such powers, franchises and immunities, and liable to such special restrictions and liabilities as the said respective corporations were within this state possessed of and subject to, under any Laws of the State of Nebraska peculiarly applicable to them or either of them at the time of such consolidation as is provided in said section of the Statute.

That under and by virtue of such consolidation, the

said Chicago, St. Paul, Minneapolis & Omaha Railroad Company pretended and claimed, and has ever since pretended and claimed that it became, was and is a domestic corporation of the State of Nebraska, within the meaning of Section 8 of Article 11, of the Constitution of the State of Nebraska,—which provides:

"No corporation organized under the laws of any "other state, or of the United States and doing business in "this state, shall be entitled to exercise the right of eminent "domain, or have power to acquire the right-of-way or "real estate for depot or other uses, until it shall have be-"come a body corporate pursuant to and in accordance "with the laws of the state."

That the said Chicago, St. Paul, Minneapolis & Omaha Railroad Company asserted all of said rights and privileges granted to domestic corporations under said Section 8 of Article 11 of the Constitution of the State of Nebraska, in a suit lately pending in the Supreme Court of the State of Nebraska, wherein the State of Nebraska was plaintiff and the Chicago, St. Paul, Minneapolis & Omaha Railroad Company was defendant, and in which suit it was adjudged and determined upon the pleading of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company filed therein that it, the said Chicago, St. Paul, Minneapolis & Omaha Railroad Company, became and was by the act of its said consolidation or creation, a corporation pursuant to and in accordance with the Laws of the State of Nebraska, and entitled to the privileges granted in said section of the Con-

stitution to domestic corporations, and subject to the same control, duties and liabilities, and that it is not a corporation organized and existing under the laws of any foreign state.

VI.

And these answering defendants for further answer deny that the maximum rate bill complained of in the complainants' bill of complaint and therein being spoken of as House Roll No. 33, violates the provisions of the Constitution of the United States, which forbid any state to deprive any person of his property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws, or to pass a law impairing the obligation of a contract, or which interferes with commerce between the states; and these defendants further deny that the enforcement of said House Roll No. 33 will operate in any way as a confiscation of the property of said railway companies, and deny that said House Roll No. 33 is in violation of the Constitution prohibiting the taking of property for public use without compensation or without due process of law; but upon the contrary aver and say that the rates therein fixed are reasonable maximum rates, and that the lines of railway controlled by the Chicago & Northwestern System within the limits of the State of Nebraska by compliance with and faithful obedience to the provisions of said House Roll No. 33 will earn as much money as they have heretofore earned, and will earn a sufficient amount of money to pay a reasonable profit upon the amount of money

invested in the construction and equipment of said lines of road, as well as interest upon its legitimate funded debt, and also a dividend upon its legitimate outstanding stock. In this connection these answering defendants further say that the capital stock of the Chicago & Northwestern Railway Company and the bonded debt thereon exceeds the sum of money which would be necessary to reproduce the same or a like system of property, and say that the capital stock of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company, including its bonded debt, exceeds the sum which would be necessary to reproduce the same or a like system of property, and further say that the capital stock, including the bonded debt of the Fremont, Elkhorn & Missouri Valley Railroad Company exceeds the sum which would be necessary to reproduce the same or a like system of property, and deny that said stock and bonds or either of them represent the true cost or value of either of said respective railway companies; and upon the contrary these defendants aver that the capitalization and funded debt secured by mortgage of the said respective railway companies is much in excess of the real cost of said property, and does not represent money actually invested in the construction and equipment of their various lines of road, and say that the said lines of road within the limits of Nebraska, did not cost to construct and equip the same, as these respondents are informed and believe, a sum exceeding $15,000 per mile; and these defendants upon information and belief further say that the said lines within the limits of Nebraska

could be reproduced and equipped at a sum of money not exceeding $15,000 per mile.

VII.

These defendants in this connection further answering say upon information and belief, that the capital stock of the Chicago & Northwestern Railway Company does not represent money invested in the construction and equipment of its said lines and property, and that the owners and holders of its said stock did not pay to the railway company in money or other consideration the face value of said stock; and further say that said stock was issued largely for the purpose of absorbing the surplus earnings of the company in the form of dividends, and for the purpose of having it appear to the public that excessive dividends were not being paid.

A statement of the capital stock of the Chicago & Northwestern Railway Company is hereto attached as Exhibit "A." And nothwithstanding the fact that said large amount of capital stock did not represent money actually invested in said company in the construction and equipment of roads, yet the said railway company has been for a long series of years earning sufficient money to pay all its operating expenses, together with interest upon its large funded debt, and a dividend from five to ten per cent. annually upon its stock, all of which more particularly appears in Exhibit "B" hereto attached. And in this connection defendants further aver that if the payment of cash dividends

had been confined to the stock which actually represented cash invested in the railroad company for the construction and equipment of its lines of road, that the net earnings would have paid a dividend annually from 20 to 25 per cent., including interest upon the outstanding funded debt.

In this connection these defendants further say that the funded debt of the Chicago & Northwestern Railway Company was reported to be in the year 1884 the sum of $80,891,000, and in 1892 $114,235,500, yet these defendants say that if the funded debt of said company was as last above stated that the same was vastly in excess of the cost and value of the property of said railway company, and that said funded debt does not represent the real cost or value of the lines of road of the said railway company, and that a like system of lines and road could be constructed and equipped for a much less sum of money than that represented by the funded debt. Whereby said railway company is not entitled to claim that it should receive enough money over and above its operating expenses to pay the interest on its excessive funded debt, and likewise to pay a dividend upon so large an amount of capital stock, insofar as the same does not represent the value of its said roads.

VIII.

These defendants in this connection further answering say upon information and belief that the capital stock of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company does not represent money invested in the construction

and equipment of its said lines and property, and that the owners and holders of its said stock did not pay to the railway company in money or other consideration the face value of said stock; and further say that said stock was issued largely for the purpose of absorbing the surplus earnings of the company in the form of dividends, and for the purpose of having it appear to the public that excessive dividends were not being paid. And these defendants further answering say that at the time of the consolidation of the Chicago, St. Paul & Minneapolis Railway Company with the Northern Wisconsin Railway Company, that the capital stock of said constituent companies was as follows, respectively: Chicago, St. Paul & Minneapolis Railway Company, $5,000,000; Northern Wisconsin Railway Company, $2,200,000, but that the consolidated company immediately increased the capital stock at the time of the consolidation, as follows:

Preferred stock	$ 9,615,000
Common stock	13,565,200
Total	$23,180,200

and which said increase of capital stock was without actual consideration; and further say that since said date the said company has further increased its stock, until now it claims and pretends to have issued and outstanding:

Preferred stock	$12,646,833
Common stock	21,403,293
Total	$34,050,126

And these defendants, upon information and belief,

charge the fact to be that such additional issues of stock have been, were and are without consideration, and does not represent money actually invested by the company in the construction and equipment of lines of road. Yet the said railway company has been for a long series of years earning sufficient money to pay all its operating expenses, together with interest upon its large funded debt, and a dividend of 6½ per cent. upon its preferred stock, all of which more particularly appears by Exhibit "C," hereto attached. And in this connection these defendants further aver that if the payment of cash dividends had been confined to the stock which actually represented cash invested in the railroad company for the construction and equipment of its lines of road, that the net earnings would have paid a dividend annually from 20 to 25 per cent., including interest upon the outstanding funded debt.

In this connection these defendants further say that the funded debt of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company is vastly in excess of the cost and value of the property of said railroad company, and that said funded debt does not represent the real cost or value of the lines of road of the said railroad company, and that a like system of lines and road could be constructed and equipped within the State of Nebraska for a much less sum of money than that represented by the funded debt. Whereby said railroad company is not entitled to claim that it should receive enough money over and above its operating expenses to pay the interest on its excessive funded debt, and likewise to pay

a dividend upon so large an amount of capital stock, insofar as the same does not represent the value of its said roads.

IX.

These defendants in this connection further answering say upon information and belief, that the capital stock of the Fremont, Elkhorn & Missouri Valley Railroad Company does not represent money invested in the construction and equipment of its said lines and property, and that the owners and holders of its said stock did not pay to the railway company in money or other consideration the face value of said stock; and further say that the said stock was issued largely for the purpose of absorbing the surplus earnings of the company in the form of dividends, and for the purpose of having it appear to the public that excessive dividends were not being paid; that at the time of the original incorporation of said company its capital stock was limited to $4,000,000, yet now so it is that the capital stock has been increased from time to time until the total amount issued and outstanding is $30,370,000, and that the whole amount of cash realized by the said railroad company on account of said issues of stock did not exceed $690,000, so that it would appear, and these defendants upon information and belief aver, that more than $29,000,000 of said stock, or nearly the entire amount thereof was issued and distributed to persons by way of a bonus upon construction contracts.

In this connection these defendants further say that said Fremont, Elkhorn & Missouri Valley Railroad Com-

pany made a report to the State Board of Transportation for the State of Nebraska for the year ending June 30th, 1892, in which it is stated among other things that its funded debt was $21,119,000, and which sum of money these defendants aver was of itself vastly in excess of the cost and value of the property of the said railroad company, and that said funded debt does not represent the real cost or value of the lines of road of the said railroad company, and that a like system of lines and road could be constructed and equipped within the State of Nebraska for a much less sum of money than that represented by the funded debt. Whereby said railroad company is not entitled to claim that it should receive enough money over and above its operating expenses to pay the interest on its excessive funded debt, and likewise to pay a dividend upon so large an amount of capital stock, in that the same does not represent the value of its said roads.

X.

These defendants further answering say, that the respective Nebraska railroad companies which became and constitute a part of the system of the Chicago & Northwestern Railroad, received large quantities of land from the State of Nebraska under state grants, the respective companies and amounts, being the following:

Fremont, Elkhorn & Missouri, Valley Railroad Company	100,030 acres.
Omaha & Northwestern Railroad	80,485 "
Covington, Columbus & Black Hills Railroad Company	100,000 "
Total	280,515 "

and which said lands were worth exceeding $1,800,000, and that said companies realized therefrom more than $1,800,000; and in addition to this the original lines composing the Chicago, St. Paul, Minneapolis & Omaha Railroad Company received about 500,000 acres from Wisconsin and Iowa, worth more than $3,000,000.

These defendants for further answer say that the said Nebraska railroad companies which constitute a part of the Chicago & Northwestern System of roads, in addition to the said land grants, received a large amount of county and other municipal bonds, throughout the various counties through which its lines extended, which amounted to more than $600,000.

XI.

These defendants for further answer say that they have no definite and positive knowledge as to the earnings of the Chicago & Northwestern System upon its roads in the State of Nebraska for the year 1892, and have no definite and positive knowledge as to the amount of the operating expenses, taxes, rent of tracks, interest on bonds and sinking fund payments of the Chicago & Northwestern Railroad Company for the said year 1892, but upon information and belief aver that in anticipation of the passing of a maximum freight bill, and to avoid the payment of what might appear to be a large dividend upon its capital stock, did purchase an unusually large amount of engines and other rolling stock, and did invest a large amount of money in other repairs and improvements with the view of having it appear

that the operating expenses were large and the dividends to be paid upon the stock comparatively small. In this connection these defendants further say that in determining whether or no the company was reaping an unreasonable profit over and above its investment and operating expenses, there should not have been deducted or taken into account the large sums representing interest paid upon bonds of the Chicago & Northwestern System for the reason that said bonds do not represent the real cost and value of its roads within the State of Nebraska, as has been hereinbefore more particularly set forth.

These defendants further answering say and allege the truth to be, that at least one-half of the tonnage, carriage and transportation upon the several lines of the Chicago & Northwestern System in the State of Nebraska, consist of grain hauled to eastern markets on a through or interstate rate, which has heretofore been placed at a very low figure, as compared with the local or state rate, thereby causing the local or state business to bear an unjust proportion of the burden of freight charges, and which excessive charges for local and state business have been made by the management of the Chicago & Northwestern System in order to yield a large profit on the business of its lines, and by way of illustration say, for the two years last past, and during the year 1892, corn was hauled from the State of Nebraska to Chicago, Illinois, at an average of 7 mills per ton per mile, while the average charge by the company per ton per mile for local tonnage was 1.359 cents, being nearly double the interstate rate

upon corn. And these defendants allege the local rate should not be placed at a high figure as compared to the interstate rate, for that such high rate for local business is unjust and works a great wrong and hardship to the people of the State of Nebraska, and is a discrimination against local shippers, and that it has been the policy of the management of the company at all times to make a low through or interstate rate, and to charge an unreasonable and unjust local rate upon shipments originating and ending within the state; and that the same applies to passenger traffic, in that the local traffic is charged for high rates and with large items of expenses in order to support the service for the accommodation of through travel.

These defendants further allege that during the two years last past, and during the year 1892, the Chicago & Northwestern Railway Company ran through freight trains entirely across the State of Nebraska from the Missouri River to the western boundary of said state, for the sole purpose of carrying through freight. That said freight trains stop only at division stations within the state, and that the expense of running said trains, and each and all of them, are charged against the lines of road within the State of Nebraska; yet true it is that said through trains did no business of any amount whatever within the said State of Nebraska, except to transport freight originating beyond the boundaries of the state, and being carried to points also beyond the limits of the State of Nebraska; whereby the fixed charges and operating expenses of the lines within the

State of Nebraska are made to appear much larger than they are in fact, and which said charges and operating expenses for the transportation of the freight on said through trains, (no part of which originates within, or is delivered to any point within the State of Nebraska,) should not be added or computed in determining the cost of the fixed charges and operating expenses for transporting the local freight within the limits of the state, and that it is unjust and unfair to make high charges for local freight for the purpose of paying the operating expenses and fixed charges for such other traffic as hereinabove described.

XII.

These defendants further answering say, that at the time the Chicago & Northwestern Railway Company obtained control of the Nebraska roads, there existed in the Constitution of the State of Nebraska, and still does exist the following provision, being Section 4 of Article XI:

"Railways heretofore constructed, or that may here-
"after be constructed in this state, are hereby declared
"public highways, and shall be free to all persons for the
"transportation of their persons and property thereon,
"under such regulations as may be prescribed by law. And
"the legislature may from time to time pass laws estab-
"lishing reasonable maximum rates of charges for the trans-
"portation of passengers and freight on the different railroads
"in this state."

That at the session of the legislature of the State of Nebraska, for the year 1893, said legislature being advised and informed that the rates heretofore charged by the Chi-

cago & Northwestern System,—The Fremont, Elkhorn & Missouri Valley Railroad Company, the Chicago, St. Paul, Minneapolis & Omaha Railroad Company, and other railway companies for the transportation of freight, were excessive and unreasonable, and that by reason of the matters and things hereinbefore set forth, and by reason of other information by the said legislature had, as the result of its own wisdom, investigation and inquiry, did pass the law complained of, in which it is provided among other things:

"That each of the railroads in the State of Nebraska "shall charge, for the transportation of freight from any "point in said state to any other point in said state, no "higher or greater rate of charge, than is by this act fixed "as the reasonable maximum rate for the distance hauled, "and the reasonable maximum rates for the transportation of "freight by railroad from any point in the State of Nebraska "to any other point in said state, are declared and estalished "to be as hereinafter in this section fixed for the distance "named and any higher or greater rate for the distance hauled "than that herein fixed and established, is prohibited and "declared to be unlawful; and the reasonable maximum "rate herein fixed and established shall be known as the "Nebraska Schedule of Reasonable Maximum Rates."

These defendants aver and say that said legislature was clothed with the power and authority to investigate and determine and by law establish what should constitute reasonable maximum rates for the transportation of freight, and to so declare by law by the said legislature is conclusive and binding upon all parties, and is not subject to investigation or revision, except by the legislature of the state, or in such other manner as the state legislature may by law

provide. And in this connection these defendants further aver that said maximum rates so established by the said law are reasonable in effect. These defendants aver upon information and belief that the Chicago & Northwestern Railway Company, the Fremont, Elkhorn & Missouri Valley Railroad Company, the Chicago, St. Paul, Minneapolis & Omaha Railroad Company and other railway companies within the State of Nebraska, by compliance with and submission to said law will receive sufficient earnings to pay a good and reasonable profit to them respectively.

XIII.

And these defendants further answering allege that the rates for the transportation of freight within the State of Nebraska upon the several lines of railroad doing business herein, as fixed by House Roll No. 33, are a uniform reduction from the local rates, before this time in force within this state, for a long period of years, and while it may appear that the rate fixed is a small charge for hauling 25 pounds of freight five miles, yet by a reference to the published schedule prices of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company and Fremont, Elkhorn & Missouri Valley Railroad Company for the hauling of freight within the State of Nebraska, which has been in full force and operation within this state for a long series of years last past, it will be found to be only a fraction of a cent lower than the published, posted and established rates made by the said railroad companies and in force and operation in this state.

Classes D and E are classes provided for in said House Roll No. 33, and consist of such articles as sand, stone, and the like, which are exceedingly heavy and are of small value. True it is that by the provisions of said House Roll No. 33, the rate upon lumber is higher for 85 miles, than for 125, as the same appears upon the face of said bill, but the same is an error in the transcribing of said bill, and as one of those discrepancies, or errors that the said Board of Transportation, under the provisions and requirements of said House Roll No. 33, has full power and lawful authority to correct. That by the terms, conditions and provisions of said House Roll No. 33, it is provided:—

"That the Board of Transportation is hereby empowered "and directed to reduce the rates on any class or commodity "in the schedule of rates fixed in this act whenever it shall "seem just and reasonable to a majority of said Board so to "reduce any rate; and said Board of Transportation is hereby "empowered and directed to revise said classification of "freight as hereinbefore in this act established, whenever "it shall appear to a majority of said Board just and reason-"able to revise said classification; Provided, That said "board of transportation shall never change the classifica-"tion in this act established, so that by such change of "classification, the rates on any freight will become higher "or greater than in this act fixed."

And these defendants deny that the said Chicago, St. Paul, Minneapolis & Omaha Railroad Company, and the Fremont, Elkhorn & Missouri Valley Railroad Company, or any other railroad company, doing business in the State of Nebraska, have a right to discriminate against any person, thing or place in the matter of freight charges, or charges

for the transportation of passengers within this state by carrying freight for one person, or from one place, at less than the actual cost of such carrying, and then charge some other person for carrying or transporting freight for him from another place, more than a reasonable rate, in order to cover the loss upon the lower rate.

And these defendants deny that under the provisions of House Roll No. 33, property will be taken for public use without just compensation, or without due process of law, and aver that the said Chicago & Northwestern Railway Company, the Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago, St. Paul, Minneapolis & Omaha Railroad Company, their stockholders, bondholders, officers, managers and employees are estopped from denying the reasonableness of rates for the transportation of freight which have been in force and effect by the voluntary action of the said officers, managers and agents of the said railroad companies within the State of Nebraska, for a long period of years last past, and which have been, in many instances, lower than the rates fixed by House Roll No. 33.

XIV.

These defendants further answering deny that the rates for the transportation of freight as fixed by House Roll No. 33 are lower than the rates in neighboring states similarly situated to the State of Nebraska; and these defendants further say that they have no knowledge as to the correctness of the tabulated statement referred to in the bill of

complaint touching the comparison of rates between Nebraska and the States of Wyoming, Minnesota, Dakota and Kansas, and therefore deny the same, and leave the complainant to its proof in that regard; but upon the other hand these defendants say that the maximum rates fixed in Nebraska upon many commodities is much higher than the rates permitted in any of the last four named states; and further say that there are various considerations which enter into what would constitute a reasonable maximum rate in the said last four named states, which would not and do not apply to the State of Nebraska. These defendants submit herewith a table showing the maximum rates for carrying freight in the State of Nebraska, and in the State of Iowa, a state similarly situated to the State of Nebraska, and which is hereunto attached and marked Exhibit "D", and from which it is made to appear that the maximum rates fixed for the State of Nebraska are considerably higher than the rates fixed for the State of Iowa; and the defendants allege that the railroads in the State of Iowa since the reduction of rates upon freight in that state have earned as much money and have paid as large dividends as said railroads paid before such reductions were made; and that defendants believe that the railroads within the State of Nebraska would earn as much money and pay as large dividends if they would submit to and comply with the present maximum rate law as they have heretofore. That the State of Nebraska for ten years and upwards last past has been steadily increasing in population, thereby increasing the tonnage and passenger

traffic upon the several lines of roads doing business in this state, and that there is every reason to believe that said increase in population and railway traffic will continue for a great many years to come.

XV.

These defendants, further answering, deny that House Roll No. 33 excludes every mode of inquiry into the reasonableness of any of the schedule rates prescribed therein, and deny that said rates are absolute and arbitrary, but say that all such matters are subject to inquiry and investigation, as is provided in said law, as follows, to-wit:

"Whenever any railroad company or companies in this "state shall, in a proper action, show by competent testi- "mony that the schedule of rates prescribed by this act are "unjust and unreasonable, such railroad or railroads shall "be exempt therefrom, as hereinafter provided. All such "actions shall be brought before the Supreme Court, in the "name of the railroad company, or companies, bringing the "same, and against the State of Nebraska, and upon the "hearing thereof if the Court shall become satisfied that "the rates herein prescribed are unjust in so far as they "relate to the railroad bringing the action, may issue their "order directing the Board of Transportation to permit such "railroad to raise its rates to any sum in the discretion of "the Board, provided that in no case shall the rates so "raised be fixed at a higher sum than that charged by such "railroad on the first day of January, 1893."

And these defendants allege that the rates which were in force on January 1, 1893, upon the several lines of the Chicago & Northwestern System, doing business in the State of Nebraska, have been in force a time sufficiently

long to determine their unreasonableness, and the profits of the railroad companies received thereunder in the transaction of their business, whereby said several railway companies are estopped from denying that such rates in force on the first day of January, 1893, were so low as to be unreasonable or unjust in that respect.

These defendants further say that under another section of said act, hereinbefore quoted, the Board of Transportation is empowered and directed to revise the classification of freight in said act established whenever it shall appear to a majority of said board just and reasonable to revise said classification.

These defendants further say that under an act of the Legislature of the State of Nebraska, entitled "An Act to regulate railroads, to prevent unjust discrimination, provide for a Board of Transportation, and define its duties, and repeal Articles 5 and 8 of Chapter 72, entitled Railroads, of the Revised Statutes, and all acts and parts of acts in conflict therewith," which was approved in the year 1887, the State Board of Transportation, was created, organized and established, of which these defendants are the members, it was made and is the duty of said Board of Transportation, composed of the Auditor of Public Accounts, the State Treasurer, the Secretary of State, the Commissioner of Public Lands and Buildings and the Attorney General of the State of Nebraska to try, hear and determine all complaints made to said board, by any and all persons complaining of anything done or omitted to be done by any railroad com-

pany in said state in contravention of any of the provisions of said act, and to inquire into the question of freight rates and charges, and other matters and things in said act provided, and that in the procedure under said act, the railway companies are entitled to have, and must receive notice, and entitled to introduce evidence and to have their day in court, and that after such investigation and hearing, should the judgment of the Board of Transportation be adverse to the said railway company, they have a right to appeal from such judgment of the Board of Transportation to the judicial tribunals of the state.

XVI.

These defendants for further answer deny that the provisions of said act exempting certain railroads from its operation, to wit, as follows:

"All railroads or parts thereof which have been built in this state since the first day of January, 1889, or may be built before the 31st day of December, 1899, shall be exempt from the provisions of this act until the 31st day of December, 1899,"

unconstitutional and is an unlawful discrimination against ther railroad companies; and in this connection the dendants further say that under and by virtue of the terms the Constitution of the State of Nebraska, the legislature the state was empowered and authorized to establish maxmum rates of charges for the transportation of freight on e different railroads, and that the legislature was not reuired to provide that said maximum rates should be the

same upon each and all of the roads within the State of Nebraska.

XVII.

These defendants further answering deny that the said Board of Transportation on or about the first of August, 1891, or at any other time, found or determined that the local freight rates for the shipments of freights within the limits of Nebraska, were either reasonable, just or warranted; and these defendants further answering say, that since said date, the condition of affairs in the State of Nebraska have vastly changed, and that what was a reasonable maximum rate at that time, would be an unjust, unreasonable and unwarranted rate at this time; and that since said time the tonnage of freight, as well as passenger traffic has vastly increased within the limits of the State of Nebraska, whereby the same can be transported at lower rates; and further, that the values of all farm products and manufactured articles, as well as labor, has become much reduced since 1891, by reason whereof the cost of transportation should be likewise reduced, and that, notwithstanding all the foregoing facts, the interstate commerce rates upon the railroads in the State of Nebraska upon grain, coal, live stock, lumber, merchandise, and upon nearly all the commodities that the people of the State of Nebraska ship out of or into the state, have been raised about four cents per hundred pounds, thereby increasing the revenues and income of railway companies; while upon the other hand the railway companies have made no corresponding reduction upon the local rates

within the state, but which should have been reduced for the reasons hereinbefore stated.

XVIII.

These defendants further answering admit that the Fremont, Elkhorn & Missouri Valley and Chicago, St. Paul, Minneapolis & Omaha Railroad Companies own different lines of road, most of which have one of their terminals at Omaha, in the State of Nebraska, and running in different directions throughout the state, whereby, and by reason whereof, the City of Omaha, within the State of Nebraska, is made a general distributing point by the railroad companies for their different lines. And these defendants in this connection deny that the various lines of road are operated together as a continuous and connecting line, and deny that the carriage and shipment of freight over the said roads is a continuous carriage by the same cars, trains, engines and crews of men, but upon the contrary say that all trains of cars arriving at Omaha are there abandoned, and all freight is there redistributed and new trains of cars are made up with new crews of men and with different engines, practically as much so as if each and all of the said several lines of road were operated by independent corporations.

These defendants further say that if there be intermingled in the same cars or trains of cars local freight and interstate commerce freight, the same is the voluntary act of the companies; and the defendants further answering say that the said railway companies cannot by the voluntary

intermingling of interstate commerce freight with local freight, take away from the jurisdiction of the State of Nebraska its constitutional and inherent power to establish a reasonable maximum freight rate for local business. Nor can said company by said intermingling of freight withdraw itself as a body corporate from the regulation and control of the general state government.

XIX.

These defendants for further answer say, that said House Roll No. 33, was duly passed by the House and Senate, composing the Legislature of the State of Nebraska, in strict conformity to law, and in obedience to the requirements of the Constitution of the State of Nebraska, and after such passage was duly signed and approved by the Governor of the State of Nebraska, in form and manner as prescribed by the Constitution and Laws of the State of Nebraska; and that under and by virtue of the Laws and of the Constitution of the State of Nebraska, the same became a law and of full force, virtue and effect; and these defendants deny that the bill for said act was not read at large in the House on three separate days, and deny that the said bill was put upon its passage without being read, and deny that divers radical changes were made in said bill without the action or knowledge of the said House; and deny that the said bill was erroneously engrossed; and deny that said bill was not read at large on three different days in the Senate; and deny that said bill was put upon its passage in the Senate without being so

read; and deny that in the enrollment of said bill that changes were made therein; and upon the contrary say, that the bill as signed by the Governor was the same bill as passed by the two Houses composing the Legislature.

XX.

These defendants deny that the Board of Transportation ever determined to reduce the rates on certain classes and commodities in the schedule of rates fixed in said act below the rates therein particularly described, as charged in the bill of complaint, and deny that said Board of Transportation has determined to revise the classification of rates in said act established; and deny that the rates in said act established, will reduce the net earnings of any of the railroad companies in the State of Nebraska as in bill of complaint averred or in any other sum whatsoever, and deny that the enforcement of said maximum rate law will in any manner whatsoever operate to confiscate the property of any of the railroads within the State of Nebraska; and further deny that the Board of Transportation intends to do any matter or thing other than that which it is their duty to do, and which by the terms of the law they are required to do, to the end that said law may be enforced.

And in this connection the defendants admit that they do mean and intend to see that the provisions of said law are enforced, and that the respective railway companies within the State of Nebraska shall submit to the provisions of said law, and to that end admit that they intend to do and mean to do whatever things may be proper, lawful and

expedient to do looking toward the faithful enforcement of said law and the subjection of the railway companies to the provisions thereof; but in this connection further deny that they ever contemplated, threatened or intended to bring any action or institute any suit or proceeding, prosecutions or indictments against any of the respective railway companies, their officers, agents or employees, unless such railway company or companies through their officers, agents and employees violated one or more of the provisions of the said law, but in which event they admit that they would do whatever should be lawful and proper for them to do under the provisions of said law looking to the enforcement thereof.

And these defendants say that if there is any other matter, cause or thing in the bill of complaint contained material or necessary for the defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided or denied, the same is not true to the knowledge or belief of these defendants, all which matters and things these defendants are ready and willing to aver, maintain and prove as this Honorable Court shall direct; and these defendants pray the same advantage of their aforesaid answer as if they had pleaded or demurred to the said bill of complaint. And these defendants pray leave to be dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

(Sgd.) GEO. H. HASTINGS,
W. A. DILWORTH,
Solicitors for State Board of Transportation.

JNO. L. WEBSTER,
Of Counsel.

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Exhibit "A."

Capital Stock of Chicago & Northwestern Railroad.

Year.	Preferred.	Common.	Proprietary	Total.
1892.....	$ 23,336,955	$ 41,386,366	$ 519,510	$ 64,242,831
1891.....	22,325,454	41,384,866	529,885	64,200,205
1890.....	22,325,454	41,384,866	579,110	64,297,430
1889.....	22,325,454	41,374,866	584,360	64,284,680
1888.....	22,325,454	41,374,866	668,933	64,369,253
1887.....	22,325,454	41,374,866	674,183	64,374,503
1886.....	22,325,454	41,374,866	11,230,000	74,930,320
1885.....	22,325,454	41,374,866	11,220,000	74,920,320
1884.....	22,325,454	26,617,366	22,550,100	71,492,620

Exhibit "B."

Statement showing rate of dividends of Chicago & North-Western Railroad.

PREFERRED STOCK.

YEAR	MONTH AND DAY	RATE
1864	Dec. 1	3½
1865	June 30	3½
1866	Dec. (*)	3
1868	June 29 (*)	10
1868	Dec. 26	5
1869	June 30	5
1869	Dec. 30	5
1870	June 20	2
1870	Dec. 30	5
1871	June 30	5
1871	Nov. 27	3½
1872	June 6	3½
1872	Dec. 9	3½
1873	June 20	3½
1876	Dec. 22	2½
1877	Dec. 3	3½
1878	May 16	3½
1878	Dec. 5	3½
1879	Feb. 19	1¾
1879	June 3	1¾
1879	Sept. 8	1¾
1879	Dec 4	1¾
1880	Feb. 25	1¾
1880	June 3	1¾
1880	Sept. 8	1¾
1880	Dec. 3	1¾
1881	Feb. 26	1¾
1881	June 2	1¾
1881	Sept. 7	1¾
1881	Dec. 5	1¾
1882	March 8	1¼
1882	June 1	2
1882	Sept. 26	2
1882	Dec. 27	2
1883	March 28	2
1883	June 28	2
1883	Sept. 29	2
1883	Dec. 27	2
1884	March 24	2
1884	June 26	2
1884	Sept. 24	2
1884	Dec. 26	2
1885	March 23	2
1885	June 27	2
1885	Sept. 25	1¾
1885	Dec. 24	1¾
1886	March 24	1¾
1886	June 25	1¾
1886	Sept. 23	1¾
1886	Dec. 28	1¾
1887	March 23	1¾
1887	June 25	1¾
1887	Sept 22	1¾
1887	Dec. 24	1¾
1888	March 26	1¾
1888	June 27	1¾
1888	Sept. 24	1¾
1888	Dec. 24	1¾
1889	March 25	1¾
1889	June 27	1¾
1889	Sept 26	1¾
1889	Dec. 23	1¾
1890	March 24	1¾
1890	June 26	1¾
1890	Sept. 25	1¾
1890	Dec. 23	1¾
1891	March 24	1¾
1891	June 26	1¾
1891	Sept. 24	1¾
1891	Dec. 26	1¾
1892	March 24	1¾
1892	June 28	1¾
1892	Sept. 22	1¾

(*) Paid in preferred stock at par.

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Exhibit "C."

Dividends Chicago, St. Paul, Minneapolis & Omaha Railroad.

(PREFERRED STOCK ONLY.)

YEAR	DATE	RATE
1881	January	1¾
1881	April	1¾
1881	July	1¾
1881	October	1¾
1882	January	1¾
1882	April	1¾
1882	July	1¾
1882	October	1¾
1883	January	1¾
1883	April	1¾
1883	July	1¾
1883	October	1¾
1884	Jannary	1¾
1884	April	1¾
1884	July	1¾
1884	October	1¾
1885	January	1¾
1885	April	1¾
1885	July	1¾
1885	October	1¾
1886	January	3
1886	July	3
1887	January	3
1887	July	3
1888	January	3
1888	July	3
1889	January	1
1889	July	2
1890	January	2
1890	July	2
1891	January	2
1891	July	2
1892	January	3
1892	July	3½

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In the Circuit Court of the United States

FOR THE DISTRICT OF NEBRASKA.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, THOMAS J. CUSHING, T. LATHROP THORNDYKE, CHARLES P. GARDNER, AND HENRY LEE, HENRY L. HIGGINSON, GEORGE C. LEE, CHARLES FAIRCHILD, JAMES JACKSON, AND GARDNER M. LANE, CO-PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF LEE, HIGGINSON & COMPANY; HENRY A. COBB, ARTHUR ESTABROOK, CHARLES H. WATSON, CHARLES E. EDDY, ARTHUR SWEETSER AND FRANK L. BEEMIS, PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF BREWSTER, COBB & ESTABROOK; JOHN PARKINSON, A. TUCKER BURR, JOSEPH M. GOODALE AND WINTHROP M. BURR, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF PARKINSON & BURR, AND BENJAMIN R. WELD AND FRANCIS M. WELD, EXECUTORS OF THE LAST WILL AND TESTAMENT OF F. M. WELD, DECEASED,

Complainants,

VS.

THE CHICAGO & NORTHWESTERN RAILROAD COMPANY, FREMONT, ELKHORN & MISSOURI VALLEY RAILROAD COMPANY, AND THE CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, GEO. H. HASTINGS, ATTORNEY GENERAL; JOHN C. ALLEN, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER; A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA; WILLIAM A. DILWORTH, J. M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD, ALL CITIZENS OF SAID STATE OF NEBRASKA,

Defendants.

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THE ANSWER OF THE DEFENDANT, THE CHICAGO & NORTHWESTERN RAILWAY COMPANY, TO THE BILL OF COMPLAINT OF THE ABOVE-NAMED COMPLAINANT.

This defendant, the Chicago & Northwestern Railway Company, reserving to itself all right of exception to the said bill of complaint, for answer thereto saith:

It admits that this defendant was originally organized as a corporation under the laws of the States of Wisconsin, Illinois and Michigan, but not under the laws of the State of Iowa, as in the bill alleged; that about 1880, the defendant, the Fremont, Elkhorn & Missouri Valley Railroad Company, was formed, and heretofore built its lines of railroad mentioned in said bill; and this defendant, the Chicago & Northwestern Railway Company, holds the stock, but holds only about two-thirds in amount of the bonds of said Fremont, Elkhorn & Missouri Valley Railroad Company. And this defendant saith, that for such bonds of the Fremont, Elkhorn & Missouri Valley Railroad Company, as are held by this defendant the latter has issued its own bonds to the creditors of the former for a like amount. And this defendant expressly denies that it operates or controls the railroad of said Fremont, Elkhorn & Missouri Valley Railroad Company or any part thereof.

This defendant further admits and avers that, in the year 1880, defendant, the Chicago, St. Paul, Minneapolis & Omaha Railway Company, was incorporated under the laws of the State of Wisconsin; and thereafter, before the com-

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mencement of this suit, under the laws of the State of Nebraska; and that long before the commencement of this suit said Chicago, St. Paul, Minneapolis & Omaha Railway Company built and acquired certain lines of railroad in the State of Nebraska, which are indicated by blue lines on Exhibit "A," attached to the bill. But this defendant denies that it caused said Chicago, St. Paul, Minneapolis & Omaha Railway Company or said Fremont, Elkhorn & Missouri Valley Railroad Company to be organized or incorporated, or that it owns or holds all or a majority of the stock of said Chicago, St. Paul, Minneapolis & Omaha Railway Company, or operates or controls the operation of the whole or any part of the railroad of said last named company.

This defendant further admits and avers that it owns and operates several lines of road which run through the States of Illinois, Iowa, Wisconsin and South Dakota, as indicated upon the map attached to the bill; and that said line of this defendant and the lines of said other two defendant railroad companies connect and are largely engaged in interstate commerce.

This defendant further answering, says that it believes it to be true that the complainants held at the time stated in the bill the stock and bonds of this defendant, as alleged in the bill; and admits that the stock of this defendant is widely distributed and among a large number of persons and parties and as many as in the bill alleged.

This defendant further answering, says it believes to be true, and it therefore admits the allegations of those sub-

divisions of the bill, numbered respectively, III, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, and XVII.

Further answering this defendant says that it is advised and believes and therefore admits and avers that said House Roll 33 violates the provisions of the Constitution of the United States which forbid any state to deprive any person of his property without due process of law, or to deny to any person within its jurisdiction the equal protection of the laws, or to pass a law impairing the obligation of contracts, or which interferes with commerce among the states.

This defendant believes it to be true and therefore admits and avers that in the construction, operation and management of the lines of road of said Fremont, Elkhorn & Missouri Valley Railroad Co., and of said Chicago, St. Paul, Minneapolis & Omaha Railway Co. in the State of Nebraska, as elsewhere, much and all proper economy and skill and judgment have been manifested and employed and the returns from the business of said railroads are and have been all that the same could be made to render with due regard to the proper maintenance of said roads and the needs and demands of the public doing business with them, and that the returns from the business of said railroads have been as large as it was possible reasonably and fairly to obtain under the then established rates of tolls and charges; that rigid economy and careful management and prudence have been employed by said companies in the salaries of their officers, the purchases of property and material and the other business and transactions of said defendant railroads, and

such expenditures as they have made have been requisite and proper for the maintenance and operation and conduct of said companies and their lines of road; and this defendant further answering says that the defendant, the Fremont, Elkhorn & Missouri Valley Railroad Company has never paid any dividend whatever upon its capital stock and that its indebtedness amounts to and has always amounted to a sum far below the actual cost of its road and equipment, and that after paying its fixed charges and operating expenses said last named defendant has applied all its remaining earnings and revenues to the necessary and proper construction, equipment, maintenance and operation of its railroad; that the railroad and equipment of said defendant, The Fremont, Elkhorn & Missouri Valley Railroad Company, are comparatively new, the greater part of said road having been built within the last six years, and prior to January 1st, 1889, and that the necessary expenses of maintaining and operating said railroad in the future will be far greater than in the past by reason of the constant demand for renewals and repairs incident to the ravages of time, and the wear and tear of constant use, so that to meet the necessary demands to be made upon said railroad in the future it will absolutely require a much larger revenue than said defendant, The Fremont, Elkhorn & Missouri Valley Railroad Company, has heretofore received from all sources; and this defendant further admits and avers that in no year have the earnings of said Chicago, St. Paul, Minneapolis & Omaha Railway Company in said State of Nebraska yielded to its

stockholders a fair or any return on their investment or stock on the lines in said State; that said last named defendant owns and operates in the State of Nebraska 263 68-100ths miles of road; that in 1881 it purchased 141 miles thereof, and has from time to time since extended its line to the total number of miles before stated; that said last named defendant was by the laws of Nebraska authorized to mortgage, and it did heretofore mortgage its said road, with the equipments and appurtenances, to secure the payment of bonds to the amount of $15,000 per mile, which bonds bear interest at the rate of 6 per cent. per annum, payable semi-annually, and have been sold to *bona fide* purchasers for their face value, and the full amount of the proceeds thereof has been used by said defendant, the Chicago, St. Paul, Minneapolis & Omaha Railway Company, in the purchase, construction, equipment and improvement of its said property in said State of Nebraska, and said bonds are still outstanding in the hands of divers persons unknown to this defendant who reside in different states and countries; that said last named defendant has issued on said lines of road in said state preferred stock to the amount of $10,000 per mile on two hundred and twenty-one and sixty-three one-hundredths miles, and common stock to the amount of $15,000 per mile on two hundred and twenty-one and sixty-three one-hundredths miles, and said property cost said last named defendant and it would now cost on an average much more than $25,000 per mile; that said last named defendant has no other income than its earnings out of which to pay

the principal or interest on its said bonded debt or any dividends to its stockholders; that before the year 1889 the net earnings of said Chicago, St. Paul, Minneapolis & Omaha Railway Company were less than in 1889 or any subsequent year, and the net earnings of said last named defendant have on an average for the past five years, beginning with 1889, fallen short per year of the amount necessary to pay the interest on said bonded debt by the sum of over $80,000, without earning or returning any dividend whatever on either class of said stock; and that though the net earnings of said last named defendant for the last two years appear to exceed the interest on its said bonded debt and to equal in 1892 one and one-fourth per cent. and in 1893 two and eighty-one one-hundredths per cent. on the preferred stock, yet a much greater sum than such excess over the interest on said bonded debt was in fact used and necessary in the improvements on said lines and the proper maintenance and repair thereof.

Further answering this defendant admits and avers that the rates of charges fixed and provided by said House Roll 33 reduce the rates on the average heretofore charged by defendant railroads at least 20 per cent. and if the reductions sought to be enforced by said last mentioned act are made, the net earnings of defendant railroads and each of them from all business in the State of Nebraska, and especially from freight business will not pay operating expenses and fixed charges of said railroads respectively and will pay nothing upon the stock of any of said railroads, but will

leave each of them without money realized from its earnings, necessary for the maintenance of its railroad, and the said act will operate a confiscation thereof, in violation of the Constitution of the State of Nebraska and also of the Constitution of the United States prohibiting the taking of property for public use without just compensation and without due process of law.

Further answering this defendant avers that under the provisions of said act, House Roll No. 33, other and new railroads may be incorporated and may construct lines in the State of Nebraska until December 31, 1899, all of which, by the terms of said act, will be entirely exempt from the provisions of said act, and which in consequence of coming in competition with the line or lines of defendants may greatly reduce the revenues of defendants and work irreparable damage and injury to them and to all railroads in the State of Nebraska constructed prior to January 1, 1889; and this defendant avers that the discrimination made by said act in favor of new railroads is in violation of the Constitution of the United States and of this State.

Further answering this defendant admits and avers that in the month of July, 1893, the complainants addressed to Marvin Hughitt, whow as and is president of this defendant, the Chicago & Northwestern Railway Company, a letter calling his attention to said House Roll 33, and pointing out several of the objections to the validity of said act, and thereby requested him to convene the Board of Directors of this defendant company to decline to put the rates prescribed

in said act in force, and also to take steps to prevent the enforcement of said act against this defendant. And that after the receipt of said letter of request and before the filing of the bill of complaint herein it was not practicable for said president to convene a meeting of said Board of Directors of this defendant and that he declined to comply with such request.

Further answering this defendant admits and avers that the bill of complaint herein was not exhibited in pursuance of or by any arrangement or understanding with this defendant or any of its officers or directors or by collusion of this defendant or any of its officers or directors or with their knowledge.

And now, having fully answered the said bill of complaint and all the matters and things therein charged and set forth, this defendant prays leave to be dismissed with its reasonable costs and charges in this behalf sustained.

CHICAGO & NORTHWESTERN RAILWAY COMPANY.

By JOHN M. WHITMAN,

General Manager.

J. B. HAWLEY

and LLOYD W. BOWERS,

Solicitors and of Counsel for The Chicago & Northwestern Railway Company.

1892049

UNITED STATES CIRCUIT COURT,

DISTRICT OF NEBRASKA.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, THOMAS J. CUSHING, T. LATHROP THORNDYKE, CHARLES P. GARDNER, AND HENRY LEE, HENRY L. HIGGINSON, GEORGE C. LEE, CHARLES FAIRCHILD, JAMES JACKSON, AND GARDNER M. LANE, CO-PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF LEE, HIGGINSON & COMPANY; HENRY A. COBB, ARTHUR ESTABROOK, CHARLES H. WATSON, CHARLES E. EDDY, ARTHUR SWEETSER AND FRANK L. BEEMIS, PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF BREWSTER, COBB & ESTABROOK; JOHN PARKINSON, A. TUCKER BURR, JOSEPH M. GOODALE AND WINTHROP M. BURR, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF PARKINSON & BURR, AND BENJAMIN R. WELD AND FRANCIS M. WELD, EXECUTORS OF THE LAST WILL AND TESTAMENT OF F. M. WELD, DECEASED,

Complainants,

VS.

THE CHICAGO & NORTHWESTERN RAILROAD COMPANY, FREMONT, ELKHORN & MISSOURI VALLEY RAILROAD COMPANY, AND THE CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, GEO. H. HASTINGS, ATTORNEY GENERAL; JOHN C. ALLEN, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER; A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA; WILLIAM A. DILWORTH, J. M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD, ALL CITIZENS OF SAID STATE OF NEBRASKA,

Defendants.

ANSWER OF CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY.

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IN EQUITY.

THE ANSWER OF THE DEFENDANT, THE CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, TO THE BILL OF COMPLAINT OF THE ABOVE NAMED COMPLAINANTS.

In answer to the said bill the said defendant the Chicago, St. Paul, Minneapolis & Omaha Railway Company says:

I.

That it admits and avers that the Chicago & Northwestern Railway Company (hereinafter called the "Northwestern Company") was originally organized under the laws of Illinois and Wisconsin; that the defendant, the Fremont, Elkhorn & Missouri Valley Railroad Company (hereinafter called the Fremont Company) was heretofore, and on or about the date alleged in the bill, organized under the laws of the State of Nebraska. But this defendant denies that said Northwestern Company caused said Fremont Company to be organized.

II.

That in the year 1880 this defendant was incorporated under the laws of the State of Wisconsin, and thereafter, before the commencement of this suit, under the laws of the State of Nebraska, and that long before the commencement of this suit it built or acquired certain lines of railroad in said last named state which are indicated by blue lines on Exhibit

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"A" attached to the bill: But it denies that said Northwestern Company caused it to be organized or incorporated, or owns all or a majority of its stock, or operates or controls the operation of the lines of its road, or any of them.

III.

That the said Northwestern Company owns and operates several lines of road running through the States of Illinois, Iowa, Wisconsin and South Dakota delineated by red lines on said map appended to the bill as Exhibit "A", which connect with the lines of this defendant and of the said Fremont Company, and the said roads of said three companies are operated in connection, and are largely engaged in interstate commerce.

IV.

That this defendant is informed and believes that the above named complainants were, at the time of the commencement of this suit, as alleged in the bill, stockholders in the said Northwestern Company, and that said Northwestern Company is, and for a long time has been, the owner of stock of said Fremont Company: But this defendant denies that said Northwestern Company controls or operates the said Fremont Company.

V.

That this defendant is advised and believes, and therefore admits and avers, that the act of the Legislature of the State of Nebraska referred to as House Roll 33, violates the

provisions of the Constitution of the United States, in the respect alleged, and that therefore its enforcement would be unreasonable, unjust and illegal.

VI.

That the business of this defendant has hitherto, generally, and specially in the State of Nebraska, been managed, and its road operated and conducted, prudently, economically, and so as to earn and obtain therefrom as large earnings and returns as it was possible reasonably and fairly to obtain under the then established rates of tolls and charges; yet in no year have the earnings thereof in said State of Nebraska yielded to its stockholders a fair, or any return of their investment or stock on the lines in said state, as the defendant is informed and believes the same is true of the Fremont Company.

VII.

That this defendant owns and operates in said State of Nebraska 263.68 miles of road; that it purchased in 1881, 141 miles thereof, and has from time to time since extended its lines to the number of miles above stated. That it was by the laws of Nebraska, authorized to mortgage, and it heretofore did mortgage said property, with the equipments, and appurtenances, to secure the payment of bonds, to the amount of $15,000 per mile which bonds bear interest at the rate of six per cent. per annum, payable semi-annually, and have been sold to *bona fide* purchasers for their face value, and the full amount of the proceeds thereof has been used

by this defendant in the purchase, construction, equipment and improvement of its said property in said state, and said bonds are still outstanding in the hands of divers persons unknown to this defendant, who reside in different states and countries. And this defendant has issued on said lines of road in said state preferred stock to the amount of $10,000 per mile on 221.63 miles, and common stock to the amount of $15,000 per mile on 221.63 miles, and said property cost this defendant, and it would now cost, on an average, much more than $25,000 per mile. That this defendant has no other income than its earnings out of which to pay the principal or interest of its said bonded debt, or any dividends to its stockholders. That the schedule hereto annexed and made a part hereof, shows the gross earnings and the net earnings of said property for the past five years, and before the year 1889 the net earnings were less than in that or any subsequent year, and as appears by said schedule, the net earnings have, on an average, for the past five years, fallen short per year of an amount necessary to pay the interest on said bonded debt by the sum of $81,265.66 without earning or returning any dividend whatever on other classes of the said stock. That though the net earnings for the past two years appear to exceed the interest on said bonded debt, and to equal in 1892 one and forty-four hundredths per cent. and in 1893 two and eighty-one hundreths per cent. on the preferred stock, yet a much greater sum than the excess over the interest on said bonded debt was in fact used and necessary in the improvements on said lines.

VIII.

That the rates of charges fixed by said House Roll 33 reduced the rates heretofore charged by this defendant on business in said state on an average of about twenty per cent., and this defendant alleges on its information and belief that the reduction of rates and tolls prescribed by said House Roll 33 could and would not materially increase the business of its said lines or in any respect or manner or any item or class of business materially add to its revenue, but that on the contrary it would in the aggregate lessen the income and earnings of this defendant in said state by substantially the percentage of such reduction.

IX.

That this defendant believes to be true, and therefore admits the allegations of subdivisions III., VII., VIII., IX., X., XI., XII., XIII., XV., XVI., XVII., of the bill.

X.

That defendant admits that on or about the month of July last, the plaintiffs addressed to Marvin Hughitt, president of said Northwestern Company, a letter in substantially the terms stated in the bill, requesting him to call together the Board of Directors of his said company, with which request he did not comply.

XI.

That the bill herein was not exhibited in pursuance of or by any pre-arrangement or understanding, or by collusion

of any of the officers of this defendant, or with their knowledge.

THOMAS WILSON,

Solicitor and of Counsel for Chicago, St. Paul, Minneapolis & Omaha Railway Company.

[SEAL.]

CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY.

E. W. WINTER,

General Manager.

Attest:

E. E. WOODMAN.

Secretary.

DISTRICT OF MINNESOTA: ss.

E. W. Winter, being duly sworn, says he is the general manager of said defendant, the Chicago, St. Paul, Minneapolis & Omaha Railway Company: That he has read the above answer and knows the contents thereof, and that the same is true of his own knowledge, except as to matters therein stated on his information and belief, and as to those matters he believes it to be true.

(Signed.) E. W. WINTER.

Subscribed and sworn to before me this 28th day of September, 1893.

C. P. NASH,

Notary Public, Ramsey County, Minnesota.

CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY.

Statement of Income Account for State of Nebraska for five years ending June 30th, 1893.

	1889	1890	1891	1892	1893	TOTAL
Gross earnings	$655,775.38	$701,231.37	$730,738.75	$862,973.24	$897,339.65	$3,848,058.39
Rentals received	36,339.28	52,708.15	55,260.86	56,764.45	57,325.56	258,398.30
Total receipts	$692,114.66	$753,939.52	$785,999.61	$919,737.69	$954,665.21	$4,106,456.69
Operating expenses and taxes	522,763.50	643,242.79	582,344.46	652,584.97	663,445.20	3,064,380.92
Net earnings	$169,351.16	$110,696.73	$203,655.15	$267,152.75	$291,220.01	$1,042,075.77
Per cent. of net earnings to funded debt	4.65%	3.04%	5.60%	6.75%	7.36%	
Interest on bonds at 6%	218,342.49	218,342.49	218,342.49	230,994.08	237,319.88	1,123,341.43
Deficit on profit over operating expenses, taxes and fixed charges	48,991.33	107,645.76	14,687.34	36,158.64	53,900.13	81,265.66
Dividend earned in Nebraska on preferred stock issued on line in Nebraska	.....	.....	.....	1.64%	2.44%	.....

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In the Circuit Court of the United States

FOR THE DISTRICT OF NEBRASKA.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, THOMAS J. CUSHING, T. LATHROP THORNDYKE, CHARLES P. GARDNER, AND HENRY LEE, HENRY L. HIGGINSON, GEORGE C. LEE, CHARLES FAIRCHILD, JAMES JACKSON, AND GARDNER M. LANE, CO-PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF LEE, HIGGINSON & COMPANY; HENRY A. COBB, ARTHUR ESTABROOK, CHARLES H. WATSON, CHARLES E. EDDY, ARTHUR SWEETSER AND FRANK L. BEEMIS, PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF BREWSTER, COBB & ESTABROOK; JOHN PARKINSON, A. TUCKER BURR, JOSEPH M. GOODALE AND WINTHROP M. BURR, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF PARKINSON & BURR, AND BENJAMIN R. WELD AND FRANCIS M. WELD, EXECUTORS OF THE LAST WILL AND TESTAMENT OF F. M. WELD, DECEASED,

Complainants,

VS.

THE CHICAGO & NORTHWESTERN RAILROAD COMPANY, FREMONT, ELKHORN & MISSOURI VALLEY RAILROAD COMPANY, AND THE CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, GEO. H. HASTINGS, ATTORNEY GENERAL; JOHN C. ALLEN, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER; A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA; WILLIAM A. DILWORTH, J. M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD, ALL CITIZENS OF SAID STATE OF NEBRASKA,

Defendants.

ANSWER IN EQUITY.

THE ANSWER OF THE FREMONT, ELKHORN & MISSOURI VALLEY RAILROAD COMPANY, ONE OF THE DEFENDANTS OF THE ABOVE ENTITLED BILL OF COMPLAINT.

This defendant, reserving to itself all right of exception to the said bill of complaint, for answer thereto saith:

That it is true, as this defendant is informed and believes, that the Chicago & Northwestern Railroad Company was originally organized under the laws of the States of Wisconsin, Illinois and Michigan, and not under the laws of the States of Wisconsin, Illinois and Iowa, as in said bill it is alleged. That it is also true that heretofore the defendant corporation was formed and built its lines of railroad mentioned in said bill, and it is also true that the Chicago & Northwestern Railway Company holds the stock, but holds only about two-thirds in amount of the bonds issued by the defendant. That for such bonds of the defendant as are held by the Northwestern Company, said last named company has issued its own bonds to the creditors of this defendant for a like amount. And this defendant expressly denies that the said Chicago & Northwestern Railroad Company operates or controls the railroad of this defendant or any part thereof, as in said bill it is alleged. It is true, as alleged, that the Chicago & Northwestern Railway Company owns and operates lines of railroads in the States of Illinois, Wisconsin and South Dakota, but this defendant denies that the railroad of this defendant, or the

Northwestern and the Omaha Companies are operated together as one connected and continuous line, as in said bill it is alleged, but this defendant admits that all of said roads are largely engaged in interstate commerce.

And this defendant avers the fact to be that the railroad of this defendant is controlled and operated by its own president, vice president and board of directors, and is and must be, under the Constitution and Laws of the State of Nebraska, an independent, self-acting corporation. Neither is this defendant's railroad in any way under lease or contract to or with said Northwestern Company. And this defendant, further answering, says that, as such Nebraska corporation, it has the right to claim, and does claim, the protection of the constitution of said state, which protects it from the imposition of unjust and unreasonable rates by the legislature, and of the Constitution of the United States, which guarantees to the defendant due process of the law and equal protection of the laws. Further answering, this defendant says that it believes it to be true that the complainants held, at the time stated, the stock and bonds of said Northwestern Company, as alleged, and admits that the stock of said last named company is widely distributed and among a large number of persons and parties, and probably among as many persons and parties as in the bill alleged. That whether the complainants, by virtue of the facts stated in the bill are interested in the property of the defendant, as in the bill alleged, is a question of law which this defendant does not feel called upon to answer or determine, and re-

spectfully submits the same to this Honorable Court for its judgment and determination.

This defendant admits that the individual defendants named in the complainants' bill are and were members of the Board of Transportation, and that said Board of Transportation was created and organized under an act "to regulate railroads, prevent unjust discrimination, provide for a Board of Transportation and define its duties, and repeal Articles 5 and 8 of Chapter 72, entitled 'Railroads,' of the Revised Statutes, and all acts and parts of acts in conflict therewith;" approved March —, 1887, and that the several state officers and secretaries named hold the offices and places, as in the bill alleged. That the said officers and secretaries pretend and allege that, at the last session the Legislature of said State of Nebraska passed, and the Governor approved, an act "to regulate railroads, to classify freights and fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act." This defendant also believes it to be true, as in said bill alleged, that said Board, and the members thereof, have threatened to put in action the full powers of said Board, under the two acts above entitled, against all of the defendant railroad companies, and will require of them, unless restrained by this Honorable Court, to make, keep, publish and post so as to be conveniently inspected in every one of their depots and stations, schedules showing the rates and charges for transportation of all

freight, and the places upon their roads to and from which the same will be carried, and the classification of freight, together with the terminal charges, and the rules and regulations which in any wise change, affect or determine any part of the aggregate of such rates and charges, and will entertain, hear and determine whatever complaints may be made to said Board by any and all persons and parties, alleging the violation by said companies, or either of them, of every and any the commands, injunctions and prohibitions in the said acts contained, or neglect on their part to obey and observe the same, and, upon complaint, will order and require said companies, and each of them, to comply with the provisions in the act secondly above entitled by classifying freight to be carried on such roads, and reducing the rates of charge for transportation thereof as in said act provided, post schedules of such rates and charges conformable to said act, and will upon each and every said order and requirement of said Board apply to one of the Courts of said state for an order of injunction or other process, mandatory or otherwise, to restrain said companies from further continuing a violation or disobedience of its said order and requirement, and enjoining obedience of the same, and for writs of attachment or other process, out of said Court, against said companies, their directors, officers and agents, to the end that such companies, directors, officers and agents be fined, as in the act first above provided, and will order the attorney general or the county attorneys of the counties through which the said roads, or any of them, may run, to in-

institute suit to compel said companies to comply with its said order, and will apply to the Supreme Court or such district court, in the name of the state, on relation of the said Board for a writ of mandamus against said companies to compel obedience to the order of said Board. And that the said Board will also require of said Attorney General and the county attorneys of the counties through which the road runs, or any of them run, to prosecute the said companies for each and every act done or omitted to be done by them, or either of them, commanded or forbidden by the said act, and seek to impose upon the said companies the severe penalties prescribed in said House Roll 33, and enforce the same against the property of said companies, which actions, proceedings and indictments may be very numerous, and, if they shall be effectually prosecuted may sweep away a large portion of the property of said companies. That the said attorney general has given notice that it is his purpose and the purpose of the said Board, and the said Board has given notice that it is its purpose, if permitted by this Honorable Court, to enforce said House Roll 33, vigorously and to the full extent of the powers conferred upon him and upon said Board in that behalf, by each and every of the proceedings mentioned and prescribed by the two acts above entitled, against any and every railroad company in the state of Nebraska, which shall in any wise do or omit what in the said acts, or either of them, is commanded or forbidden, and that said attorney general will personally take charge of such proceedings and prosecute them to the

full extent of the law, and that so he would and will do, unless restrained by the order and injunction of this Court.

And this defendant, further answering, says that true it is the said House Roll 33 violates the provisions of the Constitution of the United States, which forbid any state to deprive any person of his property without due process of law or deny to any person within its jurisdiction the equal protection of the laws or pass a law impairing the obligation of contracts, or which interferes with commerce between the states.

This defendant believes it to be true, that in the construction, operation and management of its various lines of roads in this state, as elsewhere, economy, skill and judgment have been manifested, and the returns from the business carried on by this defendant are and have been all that the same could be made to render with a due regard to the proper maintenance of said railroad and the needs and demands of the public doing business with it, and that this is true as to the salaries of officers, the purchase of property and material, and other business and transactions of said defendant. And this defendant further answering, says, that it never has paid any dividend whatever upon its capital stock, and that its indebtedness amounts to and always has amounted to a sum far below actual cost of the said road and its equipment. And this defendant avers that after paying its fixed charges and operating expenses, it has applied all its remaining earnings and revenues to the necessary and proper construction, equipment, maintenance and

operation of its said road. That the railroad and equipment of this defendant are comparatively new, the greater part of said road having been built within the past six years, and prior to the first of January 1889. That the necessary expense of maintaining and operating the said railroad in the future will be far greater than in the past, occasioned by the constant demand for renewals, for repairs incident to the ravages of time and wear and tear of constant use. It is therefore true that, to meet the necessary demands to be made upon it in the future, it will absolutely require a much larger revenue than this defendant has heretofore received from all sources. That it is true the rates of charges fixed and provided by the said House Roll 33 reduces the rates on an average heretofore charged by this defendant, and by the various railroads of this state, at least twenty per cent. and, if the reduction sought to be enforced by said last mentioned act are made, the net earnings of this defendant from all business in this state and especially from freight business will not pay operating expenses and fixed charges, and will pay nothing upon the stock of this defendant, but will leave this defendant without money, realized from its earnings, necessary for the maintenance of its railroad, and the said act will operate a confiscation thereof, in violation of the Constitution of this state, and of the Constitution of the United States, prohibiting the taking of property for public use without just compensation and without due process of law.

And this defendant further says, that a large part of its

line of road in Nebraska was built through a sparsely settled portion of said state, and where for the purpose of developing the state and settling it with inhabitants, a railroad was absolutely necessary, and this defendant had well hoped that, in constructing and operating its railroad, it would have the support and encouragement of said state to the building thereof, and that it would not be compelled to meet and encounter hostile legislation upon the part of said state, its legislature and people. And this defendant avers that the rates heretofore charged and now charged by it, for the transportation of freight from one point to another in said state, upon its various lines of railroad, have been and now are reasonable and just, and are in no respect unreasonable or unjust, and that any reduction below the present rates for such transportation would be most unreasonable and unjust to this defendant: And this defendant ought not, by any board, legislature or court to be required to reduce such rates below the rates now charged and in force upon the various lines of road of the defendant in said state. And this defendant avers, that for many months past, under existing rates, the revenues of this defendant from all sources have fallen far below a sum sufficient to pay its operating expenses and fixed charges, without any dividend whatever upon its capital stock; and this, although the defendant has greatly reduced the force heretofore employed in operating said railroad, and, in many other ways adopted a rigid system of economy that cannot long be maintained

without working great damage to this defendant, its road and property.

The defendant further says, that it is true, as stated in complainants' bill, that rates of charges are prescribed in said House Roll 33 for transporting divers articles which are less than the average cost to the defendant of such services, as enumerated in said bill of complaint, and that, in said act, there are, in the classifications of the several kinds of freight schedules inconsistencies, inequalities and injustices, as charged, and that, in all the instances mentioned in complainants' bill, rates by said act are unreasonably low, and do not afford this defendant reasonable compensation for its services in carrying such articles. True it is that the Board of Transportation of said state prosecuted, in 1891, a thorough and exhaustive inquiry into the reasonableness of the rates of charge for transportation of freight within this state by this defendant, and the various railroad companies of the state, and that after hearing many parties upon both sides, and the evidence adduced by them, and upon report of the secretaries of said Board, said Board rendered an elaborate opinion covering the whole subject, and therein found that the rates then in force, for the transportation of freight on the various lines of railroad, were reasonable and just, both to the railroads and people, and that the same ought not to be reduced. That at the time of the passage of House Roll 33 there had been no change in the conditions that would require or justify a reduction of rates, as provided in said bill.

It is also true that said House Roll 33 fixes and establishes rates of charges for the transportation of freight which are absolute and arbitrary and that the same were made without consideration of such matters as were pertinent to the inquiry and are not subject to change except as in said act provided. That under the said act it cannot be permitted to any railroad company or other carrier of like character, charged either in the civil or criminal prosecution with the violation of the provisions of said act, to allege or show that the rates fixed in said act are unreasonably low, or that the rates charged by this defendant were reasonable and just, although above those provided by said act. That the Supreme Court has no power, under the provisions of said act, to determine what is a reasonable charge for the transportation of freight, and the question of the reasonableness of the rates fixed in and by said act is not subject to inquiry or determination in any proceeding to which this defendant may be a party, or in the courts of law, or upon fair and adequate inquiry. And said act deprives this defendant, and the holder or holders of its stock, of property without due process of law, and denies to this defendant and said stockholder or stockholders the equal protection of the laws.

Further answering, this defendant says it is true that the Chicago, Rock Island & Pacific Railway Company is and for more than twenty years has been a corporation organized and existing under the laws of the States of Illinois and Iowa, owning and operating a railroad running from

Chicago, Illinois, to Council Bluffs, Iowa. That on or about the first day of January, 1889, it became a domestic corporation of Nebraska, and between the first day of January, 1889, and the first day of January, 1891, it built a railroad from Council Bluffs, in Iowa, to Denver, in Colorado, save for three several short distances where it obtained running powers over the tracks of other companies. That the lines of said Rock Island Company is in close and active competition with certain lines of this defendant, and with other railroads, between the Missouri River and Denver. That several such roads are parallel with or near to that of the said Rock Island Company, and have many common points therewith, and serve the same communities, and seek from them and do for them the same business, and their facilities to do such business, and their ability to secure the same, are substantially equal. There is not in any of the circumstances and conditions of such companies, good reason of which the state authorities can take cognizance for any discrimination between them, and whatever rate of freight is prescribed for one should be enforced against the other. This defendant admits it to be true that about the first of January, 1889, the Pacific Short Line Railroad Company commenced the construction of a railroad, designed to run from Sioux City, Iowa, west through the State of Nebraska, and afterwards completed the work as far as O'Neill in said state. That said road is and for a year last past has been owned and operated by the Sioux City, O'Neill & Western Railroad Company, a cor-

poration organized under the laws of the State of Nebraska. That said railroad is in close and active competition with the lines of this defendant, but this defendant denies that the Chicago & Northwestern Railway Company has, at any time, owned or operated any railroad whatever in the State of Nebraska. This defendant admits it to be true that this defendant's lines and the line of said O'Neill Company have some common points, and to some extent serve the same communities, and seek from them the same business, and this is true over a large scope of country. True it is that there is not, in any of the circumstances and conditions of the railroad of the said Sioux City, O'Neill & Western Railroad Company, and the lines formed by this defendant's railroad, any good reason of which the state or its authorities can take cognizance for discrimination between them; whatever rate of freight is prescribed for one should be enforced against the other. This defendant admits it to be true, as charged in the said bill of complaint, that the provisions in the said act of 1893 exempting all railroads, or parts thereof, built or to be built between January 1, 1889, and December 31, 1899, was inserted in the said act for the purpose of discriminating in favor of the said Rock Island and Sioux City Companies, so that the said Rock Island and Sioux City Companies can, but this defendant, and other railroad companies, whose lines of road were built prior to January 1, 1889, can not charge and receive compensatory rates for the transportation of freight on their respective lines, by reason whereof the said defendant and

other railroad companies whose lines were built prior to January 1, 1889, are, and their stockholders are, deprived of the equal protection of the laws. Not only is this true under the provisions of the said act, but it is also true that, under its terms and provisions other and new railroads may be incorporated to construct lines of railroad in this state, until December 31, 1899, all of which, by the terms of said act will be entirely exempt from the provisions of said act, and which, in consequence of coming in competition with the line or lines of this defendant, may greatly reduce the revenues of this defendant and work irreparable damage and injury to this defendant and the other railroads constructed prior to January 1, 1889. The act works a great wrong to the pioneer railroads of the state and offers a premium to the new lines that may be built, and this defendant avers that such discrimination is in violation of the Constitution of the United States and of this state.

And further answering, this defendant says that, to a certain extent, the lines of the defendant's railroads connect and form continuous lines for the transportation of passengers and freight, and that over such lines passengers and freight are carried from one state to another without change or interruption, and upon regulation tariffs or rates and schedules, as to time and speed, so that carriage between any point on said lines in this state, and any other point upon said lines in another state, is treated as one continuous carriage from place of shipment to place of destination, and in such cars and trains traffic originating at points in one state destined

to points in another state, and also traffic beginning and ending in this state, are carried on together, to a large extent, in the same trains and cars, and without any discrimination or difference. It is also true that the effect of the reductions called for and required by said House Roll 33 are so great as greatly to reduce the rates on business beginning in another state and ending in this state, and on business beginning in this state and ending in another state, and from the nature of the case the relations of interstate and local traffic, and of the rates of charges thereon, are so intimate and necessary that a radical change of one largely affects the other.

That the bill for said pretended act was, on the 14th day of January, 1893, introduced into the House of Representatives of Nebraska, and was the subject of consideration and action upon several days, and was on the 11th of March declared passed by that body. That the same was not read at large in that House on three different days, but was put upon its passage without being so read. That, in engrossing said bill, radical changes were made therein, without the action or knowledge of said House, which erroneously engrossed bill was transmitted to the Senate, and was there considered, amended and acted upon, but was not there read at large on three different days, and was put upon its passage without being so read, and that the president of the Senate then declared to said body that said bill ought not to be passed because it had not been read at large on three different days. That upon its return to the House

of Representatives it was enrolled, and the enrolled bill in many particulars differed from that passed by either of the two Houses, in which form it was signed by the Governor, and that the bill passed by one House was not passed by the other, and neither of the bills passed by the two Houses was ever signed by the Governor, nor was that signed by the Governor ever passed by the two Houses.

This defendant, further answering, admits it to be true that said House Roll 33 was amendatory of the act first above entitled, and that it does not contain the sections of the former act amended nor repeal those so amended.

This defendant, further answering, says it is true that said House Roll 33, in terms, denies to this defendant the right to be heard in the courts of this state, and further attempts to deny the right to allege, in an action against it for damages on account of a greater charge by it, or on an indictment against it therefor, by way of defense that the charges actually made are reasonable and just, but imposes upon the Supreme Court the administrative function of a preliminary inquiry, whether the Board of Transportation may, at its discretion, increase the schedule of rates, but, on the other hand, commits to said Board the judicial question of the reasonableness of the rates fixed by said act, and that such confusion of the powers and functions of the judicial and executive branches of the said state government is repugnant to the constitution of said state.

And further answering, this defendant admits that in the month of July, 1893, the complainants addressed to

Marvin Hughitt, who was and is president of the said Chicago & Northwestern Railway Company, a letter calling his attention to said House Roll 33, and pointing out several of the objections to the validity of the said act, and requested him to convene the board of directors of said Northwestern Company to decline to put the rates prescribed by said act in force, and also to take steps to prevent the enforcement of said act against this defendant, and that after the receipt of said letter of request and before the filing of the bill of complaint herein, it was not practicable for said president to convene a meeting of said Board of Directors of said Northwestern Railway Company, and that he declined to comply with said request. This defendant, further answering, admits it to be true that the bill of complaint in this case is not exhibited by collusion with this defendant or its officers or directors, or either thereof, for the purpose of giving jurisdiction to this Court of the questions raised and presented in said bill by the said complainant, or which may be raised upon the said act.

Further answering, this defendant says that while it is true that this defendant was advised by counsel, and verily believed, and now believes, that said House Roll 33 was and is, to all intents and purposes, unconstitutional and void, as an enactment of the Legislature of said State of Nebraska, yet it was and is true that this defendant intended in good faith to put in operation and effect the provisions of said pretended act, and upon all of its lines of railroad in said state, and publish, put in force and charge the rates, and

the rates only as in said pretended act provided and prescribed, and to that end this defendant had prepared and had printed and published such rates as last aforesaid, and was prepared to put the same in full force and effect upon the first day of August, 1893, upon all its lines in said state, and would have done so in all respects in conformity to the provisions of said pretended act, if this defendant had not been restrained by the order and mandate of this Honorable Court in this case.

And this defendant avers while this was and is true, it was at the same time also true that it was the settled and determined purpose of this defendant, immediately after the first day of August aforesaid, to take or cause to be taken steps to test as speedily as possible in the proper court or courts, the constitutionality of said act, and this defendant avers that it was its settled purpose and intention to obey and observe the provisions and conditions of said pretended act until such time as a decision should be rendered by the proper court declaring the unconstitutionality thereof. That while this defendant believed said act to be unconstitutional and void, and while the putting of it in force for any length of time would work great loss and damage to this defendant, it was still willing to put the said pretended act, and its provisions, in force during such time as might elapse between the going into effect of said act and the time when a decision could be had thereon in the courts, for the purpose of demonstrating to the people of this state the absolute impossibility of prescribing by the legislature a maximum

mileage rate for all freight to be carried on all the railroads of the state, that would work fairly and justly, or that would be satisfactory to the people of even a limited trial.

And this defendant avers the fact to be that there never was, prior to the commencement of this suit, any agreement or understanding by or between the defendant or its president or directors, and the complainant, or any or either of them, that this suit, or any other of a like character, should be commenced or prosecuted, nor in the bringing of the same was there any collusion between this defendant and the complainants, or any of them, or with any other person or persons, but, on the contrary, the commencement of this suit was without any previous notice whatever to this defendant,

And now having fully answered the said bill of complaint and all the matters and things therein charged and set forth, this defendant prays leave to be dismissed with its reasonable costs and charges in this behalf sustained.

THE FREMONT, ELKHORN & MISSOURI VALLEY RAILROAD COMPANY.

JOHN B. HAWLEY

and B. T. WHITE,

Solicitors and of Counsel for Defendant.

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In the Circuit Court of the United States

FOR THE DISTRICT OF NEBRASKA.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, THOMAS J. CUSHING, T. LATHROP THORNDYKE, CHARLES P. GARDNER, AND HENRY LEE, HENRY L. HIGGINSON, GEORGE C. LEE, CHARLES FAIRCHILD, JAMES JACKSON, AND GARDNER M. LANE, CO-PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF LEE, HIGGINSON & COMPANY; HENRY A. COBB, ARTHUR ESTABROOK, CHARLES H. WATSON, CHARLES E. EDDY, ARTHUR SWEETSER AND FRANK L. BEEMIS, PARTNERS DOING BUSINESS UNDER THE FIRM NAME OF BREWSTER, COBB & ESTABROOK; JOHN PARKINSON, A. TUCKER BURR, JOSEPH M. GOODALE AND WINTHROP M. BURR, PARTNERS, DOING BUSINESS UNDER THE FIRM NAME OF PARKINSON & BURR, AND BENJAMIN R. WELD AND FRANCIS M. WELD, EXECUTORS OF THE LAST WILL AND TESTAMENT OF F. M. WELD, DECEASED,

Complainants,

VS.

THE CHICAGO & NORTHWESTERN RAILROAD COMPANY, FREMONT, ELKHORN & MISSOURI VALLEY RAILROAD COMPANY, AND THE CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY COMPANY, GEO. H. HASTINGS, ATTORNEY GENERAL; JOHN C. ALLEN, SECRETARY OF STATE; EUGENE MOORE, AUDITOR OF PUBLIC ACCOUNTS; JOSEPH S. BARTLEY, STATE TREASURER; A. R. HUMPHREY, COMMISSIONER OF PUBLIC LANDS AND BUILDINGS, CONSTITUTING THE BOARD OF TRANSPORTATION OF THE STATE OF NEBRASKA; WILLIAM A. DILWORTH, J. M. KOUNTZ AND J. W. JOHNSON, SECRETARIES OF SAID BOARD, ALL CITIZENS OF SAID STATE OF NEBRASKA,

Defendants.

IN THE UNITED STATES CIRCUIT COURT, DISTRICT OF NEBRASKA.

The replication of George Smith of the City of London, in the Kingdom of Great Britain, and a subject of Queen Victoria in that Kingdom, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson and Gardner M. Lane, co-partners doing business under the firm name of Lee, Higginson & Company, Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser and Frank L. Bemis, partners doing business under the firm name of Brewster, Cobb & Estabrook, John Parkinson, A. Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased, all of the City of Boston, in the State of Massachusetts, and citizens of said state, plaintiffs to the answer of George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph F. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, defendants.

These repliants saving and reserving to themselves now and at all times hereafter, all and all manner of benefit and advantage of exception, which may be had or taken, to the manifold insufficiencies of the said answer for replica-

tion, thereunto say, that they will aver, maintain and prove their bill of complaint to be true, certain and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue and insufficient to be replied unto by these repliants, without this that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto and not herein or hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things these repliants are, and will be ready to aver, maintain and prove, as this Honorable Court shall direct and humbly pray as in and by their said bill they have already prayed.

J. M. WOOLWORTH,
Solicitor for Complainant.

* * * * * * * * *

2132 Thereupon afterwards at the November Term of said Court on the 23rd day of November, 1894, the following proceedings were had and done in said case as appears of record on folio 224 Journal "T" of said Court, to-wit:

George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop, Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Farchild, James Jackson, and Gardner M. Kane, co-partners doing business under the firm name of Lee, Higginson & Company, Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles F. Eddy, Arthur Sweetser, and Frank L. Bemis, partners doing business under the firm name of Brewster, Cobb and Estabrook, John Parkinson, A. Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, partners doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased,

60 "Q" v.

The Chicago & Northwestern Railway Company, The Fremont, Elkhorn & Missouri Valley Railroad Company, The Chicago, St. Paul, Minneapolis & Omaha Railway Company, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer, A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, William A Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board.

This cause came on to be heard upon all the pleadings, proofs and exhibits filed therein at the May Term of this Court before the honorable David J. Brewer, one of the Justices of the Supreme Court of the
2133 United States, assigned to the Eighth Judicial Circuit, and Elmer S. Dundy, United States District Judge for the District of Nebraska, and was argued by counsel.

And thereupon said Judges took the matter to be considered by them and on the——day of November instant, the opinion of his Honor Mr. Justice Brewer was filed in the Clerk's office. And thereupon it is ordered, adjudged and decreed as follows:

That the said railroad companies and each and every of them, be perpetually enjoined and restrained from making or publishing a schedule of rates to be charged by them or any or either of them for the transportation of freight on and over their respective roads in this State from one point to another therein, whereby such rates shall be reduced to those prescribed by the Act of the Legislature of this State, called in the Bill filed herein, "House Roll 33," and entitled "An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of

Nebraska, and to provide penalties for the violation of this Act," approved April 12, 1893, and below those now charged by said companies or either of them, or in any wise obeying, observing or conforming to the provisions, commands, injunctions and prohibitions of said alleged act; and that the Board of Transportation of said State and the members and secretaries of said Board be in like manner perpetually enjoined and restrained from entertaining, hearing or determining any complaint to it against said Railway Companies or any or either of them, for or on account of any act or thing by either of said companies, its officers, agents, servants or employees, done, suffered or omitted which may be forbidden or commanded by said alleged act, and from instituting or prosecuting or causing to be instituted or prosecuted any action or proceeding civil or criminal against either of said companies for any act or thing done, suffered, omitted which may be forbidden or commanded by said act and particularly from reducing its present rates of charges for transportation of freight to those prescribed in said act, and that the Attorney General of this State be in like manner enjoined from bringing, aiding in bringing or causing to be brought, any proceeding by way of injunction, mandamus, civil action or indictment against said companies or either of them, for or on account of any action or omission on their part commanded or fordidden by said Act. And that a writ of Injunction issue out of this Court and under the seal thereof, directed to the said defendants, commanding, enjoining and restraining them as hereinbefore set forth, which injunction shall be perpetual, save as is hereinafter provided.

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And it is hereby declared, adjudged and decreed that the act above entitled is repugnant to the Constitution of the United States, forasmuch as by the provisions of said act, the said defendant railroad companies may not exact for the transportation of freight from one point to another, within this State, charges which yield to the said companies or either of them reasonable compensation for such services.

It is further ordered, adjudged and decreed that the defendants members of said Board of Transportation of said State may hereafter when the circumstances have changed so that the rates fixed in the said act shall yield to the said companies reasonable compensation for the services aforesaid, apply to this Court by supplemental bill or otherwise as they may be advised for a further order in that behalf.

It is further ordered, adjudged and decreed that the plaintiffs recover of the said defendants their costs to be taxed by the Clerk.

O. K. as to form.

JNO. L. WEBSTER.

The foregoing decree is entered in accordance with the opinion of Justice Brewer filed in the case.

23 Nov. 1894. (Signed)

ELMER S. DUNDY, Judge.

2135 Thereupon afterwards, to-wit:—On the 2nd day of January, 1895, a Petition Praying an Appeal was filed in said case, which said Petition praying for an appeal is in words and figures following, to-wit:—

In the Circuit Court of the United States Within and for the District of Nebraska.

George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, co-partners doing business under the firm name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser and Frank L. Beemis, partners doing business under the firm name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, partners, doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased, Complainants.

60 "Q" vs.

The Chicago & Northwestern Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago, St. Paul, Minneapolis & Omaha Railway Company, Geo. H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska, defendants.

2136 PETITION PRAYING AN APPEAL.

Now come Geo. H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska, defendants in the above entitled cause, and complaining of the plaintiffs say:

That on the 23rd day of November, 1894, said plaintiffs recovered a judgment and decree against these defendants herein in said cause and in said Court, in which among other things it was decreed that these defendants be enjoined and restrained from entertaining, hearing or determining any complaint against said defendant railway Companies or either of them for, or on account of any act or thing by either of said companies, their officers, agents, or employees done, suffered or omitted which

may be forbidden or commanded by an Act of the Legislature of the State of Nebraska, entitled "An Act to regulate railroads, to classify freight, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this" Act approved April 12th, 1893.

And in which said decree these defendants were further enjoined from instituting or prosecuting, or from causing to be instituted or prosecuted, any action or proceeding, civil or criminal, against either of said railway Companies for any act or thing done, suffered or omitted which may be forbidden or commanded by the said Act, and particularly from reducing its present rates of charges for transportation of freight to the rates prescribed in said act.

2137 And in which said judgment and decree the Attorney General of the State of Nebraska was further enjoined from bringing or causing to be brought any proceeding by way of injunction, mandamus civil action or indictment against any or either of said railway companies for or on account of any action or omission on their part commanded or forbidden by the said Act.

And in which said judgment and decree it was adjudged and decreed that the said Act above mentioned is repugnant to the Constitution of the United States, in that the said railway Companies may not under its provisions exact rates for the transportation of freight which yield to the companies reasonable compensation for such services.

And these defendants allege that they were prejudiced by the various orders, judgments and decrees, and that there is error in the proceedings of the Court by which said judgment and decree was obtained and that the said judgment and decree was erroneous in matters and things more particularly shown by the assignment of errors filed herewith and by the record in said cause.

And by reason of said errors the said defendants pray that they may be allowed an appeal from said judgment and decree of said Court in said cause to the United States Circuit Court of Appeals, for the Eighth Circuit, and that a transcript of the record and proceedings duly authenticated may be sent to said Court of Appeals, whereby said judgment and decree may be reversed and whereby these defendants may be given such other and further relief as may be just and proper.

George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Jno. L. Webster, Geo. H. Hastings, & W. A. Dilworth their solicitors.

2138 Appeal allowed as prayed, January 2, 1895.

ELMER S. DUNDY, Judge.

Upon the back of said petition, praying an appeal, appear endorsements in the words and figures following, to-wit:

Docket "Q," No. 60. U. S. Circuit Court, District of Nebraska. Geo. Smith et al., plaintiffs, vs. The Chicago and Northwestern Ry. Co., defendants. Petition praying an Appeal. Filed Jan. 2, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Sol. for Defendants.

Thereupon afterwards, to-wit: On the said 2nd day of January, 1895, on Assignment of Errors was filed in said case, which said Assignment of Errors is in the words and figures following, to-wit:

In the Circuit Court of the United States within and for the District of Nebraska.

George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, Co-partners doing business under the firm name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser and Frank L. Bemis, partners doing business under the firm name of Brewster, Cobb & Estabrork; John Parkinson, A Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, partners doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased, Complainants,

60 "Q" vs.

The Chicago & Northwestern Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago, St. Paul, Minneapolis & Omaha Railway Company, Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska, Defendants.

2139 ASSIGNMENT OF ERRORS.

Now come Geo. H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska, defendants in the above entitled cause, and say there is manifest error in the record of the proceedings and decree in the above entitled cause, in this, to-wit:—

1. Said Court erred in that part of the decree wherein it ordered and decreed that said railway companies be perpetually enjoined and restrained from making or publishing a schedule of rates to be charged by them for the transportation of freight on and over their respective roads in this State from one point to another therein, whereby such rates shall be reduced to those prescribed by the Act of the Legislature of the State of Nebraska, entitled "An Act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this Act," approved April 12th, 1893.

2. That the said Court erred in that part of the decree wherein it ordered and decreed that the defendant railway companies be enjoined and restrained from reducing the rates below those now charged by said companies or either of them, or from in any wise obeying, observing or conforming to the provisions, commands, injunctions and prohibitions of said Act of the Legislature of Nebraska.

3. That the said Court erred in that part of its judgment and decree wherein it decreed that the Board of Transportation of the State
2140 of Nebraska, its members and Secretaries, be perpetually enjoined and restrained from entertaining, hearing or determining any complaint made to it against said railway companies or for on account of any act or thing done, suffered or omitted by said companies, their officers, agents or servants, which may be forbidden or commanded by said Act of the Legislature of the State of Nebraska.

4. That said Court erred in that part of its judgment and decree wherein it adjudged and decreed that the Board of Transportation of the State of Nebraska, be perpetually enjoined and restrained from instituting or prosecuting or causing to be instituted or prosecuted, any action or proceeding against either of said companies for anything by them done, suffered or omitted or which may be forbidden or commanded by the said act of the Legislature of the State of Nebraska.

5. For that the said Court erred in said judgment and decree wherein it ordered and decreed that the Board of Transportation be perpetually enjoined and restrained from reducing the present rates of charges for transportation of freight by the defendant railway companies or either of them to those rates prescribed in said Act of the Legislature of the State of Nebraska.

6. That the said Court in its said judgment and decree erred in that part thereof wherein it adjudged and decreed that the Attorney General of the State of Nebraska be in like manner perpetually enjoined and restrained from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action or indictment against said railway companies or either of them for or on account of any action or omission on their part commanded or forbidden by the said Act.

7. That the said Court erred in that part of its judgment and decree wherein it is adjudged and decreed that the said Act of the Legislature of the State of Nebraska is repugnant to the Constitution of the United States.

2141 8. That the Court erred in its said judgment and decree in that part thereof wherein it adjudged and decreed that the said Act of the Legislature of the State of Nebraska forbade the railway companies from exacting for the transportation of freight from one point to another within the State, charges which would yield to the companies reasonable compensation for such services.

Geo. H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska.

By JNO. L. WEBSTER,
Their Solicitor.

Upon the back of said Assignment of Errors appear endorsements, in the words and figures following, to-wit:

Docket "Q." No. 60. U. S. Circuit Court, District of Nebraska. George Smith, et al., Plaintiff, vs. The Chicago & Northwestern Ry. Co., et al., Defendants. Assignment of Errors. Filed Jan. 2, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Sol. for Defendants.

The United States of America, To George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke,
2142 Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson and Gardner M. Lane, Co-partners doing business under the firm name of Lee, Higginson & Company, Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser and Frank L. Bemis, partners doing business under the firm name of Brewster, Cobb and Estabrook, John Parkinson, A. Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, partners doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the last will and Testament of F. M. Weld, deceased, The Chicago & Northwestern Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this Citation bears date, pursuant to an appeal allowed and filed in the Clerk's office of the Circuit Court of the United States for the District of Nebraska, wherein

Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska, are appellants, and you are appellees, to show cause, if any there be, why the Decree ren-
2143 dered against the said Appellants, as in said appeal mentioned should not be corrected, and why speedy justice should not be done the parties in that behalf.

Seal of the United States Circuit Court, District of Nebraska.

Witness, the Honorable Elmer S. Dundy, judge of the Circuit Court of the United States for the District of Nebraska, this 10th day of January in the year of our Lord one thousand eight hundred and ninety-five.

ELMER S. DUNDY,
United States District Judge, for the District of Nebraska.

2144 Service accepted for Chicago & Northwestern, Fremont, Elkhorn & Missouri Valley and Chicago, St. Paul, Minneapolis & Omaha, Jan. 15, 1895. John B. Hawley & B. T. White, Attys. for above defendants.

Docket Q No. 60. U. S. Circuit Court, District of Nebraska, George Smith et al., Plaintiff, vs. The Chicago & Northwestern R. R. Co. et al., Defendant. Citation. Service admitted Jany. 11th, 1895. I. M. Woolworth, Sol. for plffs. Filed Jan. 15, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Attorney for Appellants.

2145 Thereupon afterwards to-wit: On the 19th day of January 1895, a Cost Bond was filed in said case which said Cost Bond is in words and figures as follows:

Know all Men by the Presents, That we, George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of the State of Nebraska, as principals, and Edward Rosewater and Geo. S. Tzschuck, as sureties are held and firmly bound unto George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson and Gardner M. Lane, co-partners doing business under the firm name of Lee, Higginson & Company, Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser and Frank L. Bemis, part-

ners doing business under the firm name of Brewster, Cobb and Estabrook, John Parkinson, A. Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, partners doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the last will and Testament of F. M. Weld deceased, The Chicago & Northwestern Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago St. Paul, Minneapolis & Omaha Railway Company, in the full and just sum of Five Hundred, to be paid to the said George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thordyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson and Gardner M. Lane, co-partners doing business under the firm name of Lee, Higginson & Company, Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser, and Frank L. Bemis, partners doing business under the firm name of Brewster, Cobb and Estabrook, John Parkinson, A. Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, partners doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the last will and testament of F. M. Weld, deceased, The Chicago & Northwestern Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago, St. Paul, Minneapolis & Omaha Railway Company, their heirs, executors, administrators, or assigns: to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally by these presents. Sealed with our seals, and dated this 19 day
January in the year of our Lord one thousand eight hundred and
2146 ninety-five.

Whereas, lately at the November term, A. D. 1894, of the Circuit Court of the United States for the District of Nebraska, in a suit depending in said Court between George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, co-partners doing business under the firm name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser and Frank L. Beemis, partners doing business under the firm name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale and Winthrop M. Burr, partners, doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the Last will and testament of F. M. Weld, deceased, complainants, versus The Chicago & Northwestern Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago, St. Paul, Minneapolis & Omaha Railway Company, Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Building, Constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, all citizens of said State of Nebraska, respondents, decree was rendered against the said respondents, and the said George H. Hastings, Attorney General, John C. Allen, Sec-

retary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, have obtained an allowance of an appeal from the said Court to reverse the said decree in the aforesaid suit, and a citation directed to the said appellees citing and admonishing them to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the date of said Citation.

Now the Condition of the above Obligation is such, That if the said George H. Hastings, Attorney General, John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public
2147 Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, shall prosecute said appeal to effect, and answer all damages and costs if they fail to make good their plea, then the above obligation to be void, else to remain in full force and virtue.

George H. Hastings, Attorney General, John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board, [Seal.]

By JOHN L. WEBSTER,
Their Solicitor.

EDWARD ROSEWATER, [Seal.]

GEO. B. TZSCHUCK, [Seal.]

Approved by ELMER S. DUNDY, Judge.

Upon the back of said Cost Bond appear endorsements in words and figures following to-wit:

Docket Q. No. 60. U. S. Circuit Court District of Nebraska. George Smith, et. al. Plaintiff, vs. Chicago & Northwestern Ry. Co. Defendant. Cost Bond. Filed Jan. 19, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Attorney for Appellants.

* * * * * * * * *

Filed Jan. 24, 1895. John D. Jordan, Clerk.

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App. Doc. Q. No. 62.

In the Circuit Court of the United States,

DISTRICT OF NEBRASKA.

HENRY L. HIGGINSON, ROBERT H. GARDNER, WM. C. WELLS, GEO. A. GARDNER, W. S. DEXTER, CHARLES A. CUTTING, F. GORDON DEXTER, W. POWELL, MASON R. PIERSON BREED, S. E. PEABODY, and HENRY STOCTON,

Complainants.

vs.

THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, GEORGE H. HASTINGS, Attorney General, JOHN C. ALLEN, Secretary of State, EUGENE MOORE, Auditor of Public Accounts, JOSEPH S. BARTLEY, State Treasurer, and A. R. HUMPHREY, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and WILLIAM A. DILWORTH, J. M. KOUNTZ and J. W. JOHNSON, Secretaries of the Board of Transportation of the State of Nebraska,

Defendants.

COPY OF THE PLEADINGS.

Omaha Printing Co.

App. Doc. Q. No. 62.

In the Circuit Court of the United States,

DISTRICT OF NEBRASKA.

Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell, Mason R. Pierson Beebe, S. E. Peabody, and Henry Stocton,

Complainants.

vs.

The Chicago, Burlington & Quincy Railroad Company, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska,

Defendants.

Copy of the Pleadings.

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IN EQUITY.

To the Honorable the Judges of the Circuit Court of the United States for the District of Nebraska:

Henry L. Higginson, Robert H. Gardner, Samuel Johnson, William G. Weld, George A. Gardner, W. S. Dexter, Charles U. Cotting, F. Gordon Dexter, W. Powell, Mason R. Pierson Beebe, S. E. Peabody and Henry Stockton, all of the city of Boston in the State of Massachusetts and citizens of said state, suing not only on their own behalf but on behalf of all others similarly situated, bring this their bill of complaint against the Chicago, Burlington & Quincy Railroad Company, a corporation organized and existing under the laws of the States of Illinois and Iowa, George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; and A. R. Humphrey, Commissioner of Public Lands and Buildings, all of whom are officers of the State of Nebraska, and as such constitute its Board of Transportation, and William A. Dilworth, J. M. Kountz and J. W. Johnson, secretaries of said board and are all citizens of said state.

And thereupon your orators complain and say:

I. For twenty years and more last past the Chicago, Burlington & Quincy Railroad Company has been and still is a corporation originally organized and existing under the laws of the State of Illinois and for ten years and more last

past, it has been and is authorized to acquire and operate railroads in this state under and by virtue of the laws thereof. The said company owns and operates several lines of railroad, which have their eastern initial point in Chicago, Illinois, and run thence northwest, west and southwest through the States of Illinois, Iowa, Minnesota, Missouri, Kansas, Nebraska, Colorado, Wisconsin, South Dakota and Wyoming.

In 1880 the Burlington & Missouri River Railroad Company in Nebraska, a corporation organized and existing under the laws of that state, owned and operated several roads therein and in that year for a large and valuable consideration sold, assigned and transferred the same to the defendant company. The defendant company has for convenience ever since operated the said roads in the name of the said Burlington company, but by its own directors, officers and agents but for its own benefit as fully as other roads operated by it in its own name.

Hereto annexed is a map marked Exhibit "A" and made a part hereof upon which is correctly shown the lines of said company and the regions through which they run. The aggregate capital of said company is $76,407,500, of which the sum of $29,583,195 is properly attributable to its roads and property in this state, and has been expended in constructing and acquiring the same and is fairly represented thereby. The aggregate funded debt of said company, including its liabilities on account of branch lines, is $123,963,630, of which the sum of $46,840,569 is properly

attributable to its roads and property in this state, and has in fact been expended in constructing and acquiring the same. The capitalization of the whole system and property of said company, including its bonded debt and other changes, does not exceed the sum which would be necessary to reproduce the same or a like system and property and the whole capital and fixed charges attributable to the company's property in this state, correspond to the cost and the real and true value of its property therein. Nor is this true only of the whole system and all the property of said company, taken together but of each road considered by itself under whatever corporate name and franchise the same may have been originally built or is now operated.

II. Your orators are, and for six months and more last past have been stockholders of said company, and as such during that time they have been holders and are duly registered in the public registery of said company's stock as holders of 30,274 shares each of the par value of $100; and for the same time have been holders of bonds of said company secured upon its roads and property to the amount of $910,900. The whole of the company's stock is distributed among and held by more than eleven thousand persons and parties, for which reason it is impracticable to implead all of them in a complaint to your Honors, and your orators are compelled to and do exhibit this, their bill, in behalf not only of themselves but on behalf of all other stockholders of said company.

III. The individual defendants in this bill of your

orators are and for six months have been officers of the State of Nebraska; that is to say, the said Hastings is Attorney General, the said Allen is Secretary of State, the said Moore is Auditor of Public Accounts, the said Bartley is Treasurer, said Humphrey is Commissioner of Public Lands and Buildings, and as such officers they constitute the Board of Transportation. William A. Dilworth, J. M. Kountz and J. W. Johnson, are secretaries of said board. The said defendants pretend and allege that at its last session the legislature passed and on the 12th of April last past, the governor approved an act entitled, "An act to regulate railroads, to classify freight, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act."

IV. And the said board and the members thereof have threatened that they will and unless restrained by the order and injunction of this court, they will put in action its full powers under the two acts above entitled of inquiry, examination and determination against said defendant companies, and will require them to make, keep publish and post so as to be conveniently inspected, in every one of their depots and stations, schedules showing the rates and charges for transportation of passengers and property, and the places upon their roads upon which the same will be carried and the classification of freight together with the terminal charges and unless rules and regulations which in any wise, change, affect or determinate any part of the

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aggregate of such rates and charge and will entertain, hear and determine whatever complaints may be made to it by any and all persons and parties alleging the violation by said companies of any and every the commands, injunctions and prohibitions in the said two several acts above entitled contained or neglect on their part to obey and observe the same and upon such complaints, will order and require said companies to comply with the provisions of the act secondly above entitled, which for convenience is hereinafter called House Roll 33, particularly by classifying freight to be carried on such roads and reducing the rates of charge for the transportation thereof, as in the said act provided, and make, publish and post schedules of such rates and charges conformable to said act, and will upon each and every such order and requirement of said board, apply to one of the courts of said state, for an order of injunction or other process mandatory or otherwise to restrain said companies from further continuing a violation or disobedience of its said order or requirement, and enjoining obedience of the same, and for writs of attachment and other process out of said court against said companies their directors, officers or agents, to the end that such companies, their directors, officers or agents, be fined as provided in the act first above entitled, and will order the attorney general or the county attorneys of the counties through which the said roads or any of them may run, to institute a suit to compel said companies to comply with its said order, and also apply to the Supreme Court or such District Court in the name of the state on

relation of said board for a writ of mandamus against said companies, to compel obedience to the order of the said board. And the said board will also require the said attorney general and the county attorney of the counties through which the said roads or any of them run, to prosecute the said companies for each and every act done or omittedby it, commanded or forbidden by the said act, and seek to impose upon said company the severe penalties prescribed in said House Roll 33, and enforce the same against the property of said company. Which actions, proceedings and indictments will be very numerous, and if they shall be effectively prosecuted, they will sweep away all the property of said companies.

The said attorney general has given notice that it is his purpose, and the purpose of said board, to enforce the said House Roll 33 promptly, vigorously and to the full extent of the powers conferred upon him and said board, in that behalf, by each and every of the proceedings mentioned and prescribed by the two acts above entitled against any and every railroad company in this state, which shall in any wise do or omit what in the said act or either of them, is commanded or forbidden; and personally to take charge of such proceedings and prosecute them to the full extent of the law, and so he will do unless restrained by the order and injunction of your Honor as hereinafter prayed.

V. The earnings of said company upon its roads in the State of Nebraska for all business thereon were in the year 1892, as follows:

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Freight	$6,931,167.84
Passenger	2,092,839.74
Mail, express and miscellaneous	688,122.80
Total	$9,712,130.38

The expenses of carrying on said business and the charges upon the company's property were as follows:

Operating expenses	$6,045,956.21
Taxes	483,5[illegible]8.07
Rent of tracks	1,144.45
Interest on bonds	2,305,127.26
Sinking fund payments	311,414.04
Total	$9,147,229.03

which left a surplus of $564,901.25, which was equivalent to one and nine-tenths per cent upon the capital attributable to the property in this state and upon the actual cost and fair value thereof.

The gross earnings from freight were $6,931,167.84, and expenses on account of that service, including its share of fixed charges were $6,179,525.17, leaving $751,642.67 which was equivalent to two and fifty-four one-hundredths per cent upon the capital attributable to the property in this state and the actual cost and fair value thereof. The per cent of the net freight earnings exceeded the per cent of the net earnings of the whole business in the state because the maximum passenger rate was fixed by the legislature at 3 cents per mile, which was insufficient to answer the cost of that service. The proportion of returns from the transportation of freight between this and other states to expenses and fixed charges as above stated was sub-

stantially equal to that of the returns from transportation between points within the state to the same sum. The same is true of the returns from mail, express and miscellaneous service; so that the freight business within the state only bore its proportionate share of the expenses and fixed charges of the whole business and contributed only its proportionate share of the two and thirty-four one-hundredths per cent earned on the stock. The business of the company in 1892 was exceptionally favorable as regards volume and earnings. The year 1891 showed much less favorable net results, largely on account of the drought which impoverished a large part of the state, while the present year does not promise good returns by reason of the severe depression of business prevalent throughout the country, and especially in this state; for all of which reasons the above figures for 1892 are fair and reasonable for an estimate for other years.

The administration of the said company has always been characterized by exceptional skill and judgment, and the returns from the business were all that the same could be made to render.

The said company's surplus earnings in 1892 did not yield a fair return to your orators and its other stockholders upon their capital. Nevertheless the rates of charges for the transportation of freight on its roads in this state attempted to be fixed by House Roll 33, are one-fifth less than those charged and received in 1892 and at other times; and if the said act shall go into operation, the net earnings of said company arising from all its business in the state and

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especially from its freight business will be more than one-fifth than it realized in that year and will not pay its operating expenses and fixed charges and will return nothing to your orators and other stockholders of said company upon their capital invested in it, and will operate as a confiscation of their property in violation of the provisions of the constitution of the United States and of this state against taking property for public use without compensation and without due process of law.

VI. By the said House Roll 33, rates of charges are prescribed for transporting divers articles which are less than the average cost of carriage of freight; some of which are the following: all of those included in classes D and E of said classification; also wheat, flour, millet and flax seed, grains and mill stuff, lumber, all kinds of coal, that is to say, hard and soft, lump and nut, pea and slack; then any of the aforesaid classes and articles are to be carried for considerable distances; also all articles which are to be carried in small packages for short distances. Your orators for the purpose of illustration point out that upon packages of merchandise of the weight of twenty-five pounds carried five miles, the rates of charges allowed under said House Roll 33, are as follows: For first class, three and one quarter cents; second class, two and three quarter cents; third class, two and one fourth cents; fourth class, one and three quarter cents; if carried twenty-five miles, the rates are for first class four and one-fourth cents, second class three and three fourth cents, third class two and ninety-five hundredths

cents, fourth class, two and forty-five hundredths cents, which rates do not yield to the company of your orators, the cost of receiving and forwarding any of the packages aforesaid.

This is true of all rates fixed by said House Roll 33 upon all small packages carried short distances. And your orators submit that upon the face of the schedules and classification, there are divers inconsistencies, inequalities and injustices in that the rate of charges prescribed by said act for transportation of divers articles are less for a certain distance than those prescribed for a shorter distance; and for example your orators point out that the rate prescribed in House Roll 33 upon lumber, laths, shingles, doors, sash and blinds, for eighty-five miles is eight cents per hundred pounds, while for ninty, ninty-five, one hundred and one hundred and five the rate is but six cents; for one hundred and ten and one hundred and fifteen miles the rate is but six and one quarter cents per hundred pounds; for one hundred and twenty miles, the rate is but seven cents per hundred pounds; for one hundred and twenty-five miles, the rate is but seven and one-half cents; for one hundred and thirty miler, the rate is but eight cents per hundred miles.

Your orators submit that while the company having regard to circumstances, may carry an article for less than cost to it of such services and a fair profit, yet the legislature cannot compel it to do so that being the taking of the company's property, for public use without returning compensation therefor and without the process of law, and it

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being practically impossible to assure to your company a profit on some other service which will answer the deficiency.

VII. The unreasonableness of the rates fixed by House Roll 33, appears from a comparison of them with those allowed by law to companies similarly situated in other states. Hereto annexed is a table showing this comparison marked Exhibit "B" and made a part hereof.

VIII. In July and August, 1891, the Board of Transportation prosecuted a thorough and exhaustive inquiry into the reasonableness of the rates of charge for transportation of freight within this state by the company of your orators and after hearing many parties upon one side and the other and evidence adduced by them respectively and upon the report of the secretaries on said board, it rendered an elaborate opinion covering the whole matter in all its aspects which concluded as follows:

FINDINGS OF THE BOARD.

"After a careful and quite thorough investigation of the question of freight rates in Nebraska, which has occupied much time, and has taken a wide range, the State Board of Transportation has arrived at the conclusion that the rates now in force in this state cannot be generally reduced without doing violence to the business interests of the state, and at the same time injuring the shipping and producing classes.

"We have come to this conclusion, not by taking the cost of construction and equipments nor the amount of stock and bonds issued per mile, but by making our computations upon the basis of what it would cost to duplicate the property at the present time.

"It has been our endeavor to deal fairly and justly with the question, and in arriving at a conclusion, we have been governed only by the evidence, statements and facts produced for our consideration.

"A candid examination and comparison of the figures presented to us in the unanimous report of the board of secretaries, in the opinion of this board, fully justifies the conclusion reached; that a general reduction of the rates, as now in force over this state, is not practical at this time."

IX. As hereinbefore stated the defendant company for a large and valuable consideration by it paid therefore acquired from the Burlington & Missouri River Railroad Company in Nebraska the roads and appurtenant properties delineated on said map at which time the constitution of the State of Nebraska contained the following provision: "The legislature may from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this state" whereby it was declared by the fundamental law that the legislature should not nor would not at any time pass a law establishing maximum rates of charges for the transportation of freight on the different railroads in this state which were or should be unreasonable. And the said company re-

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lied upon the said limitation of the powers in that behalf of the legislature when it acquired the said railroads in this state, and but for the same it would not have expended what was necessary to and what it did expend in order to acquire the said roads; and thereby a contract was entered into by and between the state and said company, the said state on its part agreeing that its legislature should never pass a law establishing maximum rates of charge for the transportation of freight on said roads in this state which were or should be unreasonable; in consideration that the said company acquire said railroads and operate the same according to law, the said company on its part, agreeing to so acquire and operate the said roads upon the consideration among others that no such law should be enacted until the passage of the said House Roll 33, the said parties and each of them and the said company of your orators has continued to do so unto this day. The legislature of said state by the said alleged act sought to establish rates of charges for the transportation of freight on the said company's roads in this state, which as hereinbefore shown are grossly unreasonable and said act is a law which impairs the obligation of the said contract and its repugnant to the constitution of the United States and is therefore null and void.

And at the same time and in like manner in and by the constitutional provision hereinbefore recited the State of Nebraska further for a like consideration contracted with the said company of your orators that the legislature of said state would not at any time pass a law which should deprive

said company of the power to fix its rates of charge for the carriage of persons or property below the maximum rates which the said legislature should under the said constitutional provision fix and establish which right to be exercised by said company, at its reasonable discretion, is not only to it, but to the public of great value and importance. The roads of said company have been built in and through regions at the time very sparsely settled or not sett'ed at all, in which industries when first originated must be assisted by cheap transportation or they cannot be developed; heretofore by judicious exercise of that right on the part of said company and its predecessors, many such industries along its roads have been rapidly and largely developed, which now by their business contribute to the earnings and prosperity of said company; but for such right and its judicious exercise the regions through which said roads run would remain today almost in the state of nature in which they were before the building of said roads. Notorious illustrations of which statements are the manufacturies of beet sugar, paper, cotton goods, and other such articles which have been built and operated in various parts of the state. The said House Roll 33 was so framed as to deprive said company of said right first by an absolute classification of all articles, which is not subject to change by said company nor by other authority save the Board of Transportation and at its uncontrolled pleasure except that whatever change it makes shall not have the effect to raise the rates; second, by forbidding said company to reduce the rate of charge on any article without a like

change in respect of every other article in the same class, and to change the charge on no class without a corresponding change of the charge on all classes, which practically renders every change in respect of every article impossible; third, the schedule of rates provided for in said act cover all rates and said company is only empowered to change the schedule and not the rates on single articles by which several clauses and provisions the right to regulate its rates below the maximum rates is withdrawn from said company to its great injury and in violation of the contract between the state and the company hereinbefore mentioned.

Wherefore your orators submit to your honors that the said alleged act is repugnant to the constitution of the United States, which forbids a state to pass a law impairing the obligation of contracts, and is therefore null and void.

X. The said House Roll 33 not only fixes and establishes rates of charges for transportation of freight which are in the first instance absolute and arbitrary, but with severe assiduity excludes every mode of inquiry into their reasonableness. The classification of freight is expressly made permanent save as it may be revised by the Board of Transportation at its pleasure without hearing or opportunity for complaint by said company. The rate apportioned upon said classification, while they may be the subject of imperfect and preliminary inquiry in the Supreme Court, are not as to their reasonableness matter of determination or judgment in or by said court and it is only empowered to refer the same to said board for its discretionary action, which

action is without hearing the said company and without having before the said board evidence pertinent to the matter, and with power limited to raising the rates not above those charged on the 1st of January last past. And the several provisions, clauses and terms of said bill are skillfully framed so as to forbid a reduction of rates except as hereinbefore set forth. And while said company is subjected to actions by parties who allege themselves to be injured by the unobservance by said company of the provisions of said act and to indictment and heavy and unreasonable penalties on that account, all defense on the ground that the rates charged by said company are just and reasonable, although not conformable to those prescribed by said act, are by its terms wholly excluded and denied to said company.

But for said act in an orderly litigation either in an action for damages or an indictment against said company for not obeying the provisions of said act, if opportunity were offered, said company could submit in its defense evidence tending to show that the rates charged by it in excess of those fixed in said act were just and reasonable and thereby defend itself against complaint for violation of said act.

In said state to every person and party save and except the said company and other common carriers of like character justice is dispensed in the courts of law freely and without denial or delay in pursuance of the fundamental principles of English and American institutions and of the constitution and especially in an action or indictment such as those mentioned above, he will be heard to allege in his de-

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fense such matters as in the said act are denied to said company and other like parties.

Wherefore, your orators submit that the said alleged act denies to said company the equal protection of the laws and deprives it of its property without due process of law and is repugnant to the Constitution of the United States and is therefore null and void.

XI. The Chicago, Rock Island & Pacific Railway Company is and for over twenty years has been a corporation organized and existing under the laws of the States of Illinois and Iowa, owning and operating a railroad running from Chicago, Illinois, to Council Bluffs in Iowa; having by due proceedings in that behalf under and by virtue of the laws of this state become a domestic corporation thereof, between the first of January, 1889, and the first of January, 1891, it acquired the right to run its trains, cars and engines over the Union Pacific Railway Company's bridge across the Missouri River between Council Bluffs and Omaha and over that company's tracks to South Omaha in this state, and also to use the entire terminal system of that company at Omaha, and has built a railroad from South Omaha by way of Lincoln to Denver in Colorado, save that for the two distances it has acquired the right to run its trains, cars and engines over tracks belonging to other companies. Not only is the line of said Rock Island Company in close and active competition with that of said defendant Railway Company between Chicago and Omaha, but for much the larger part of the distance from Omaha to Denver the two lines are parallel

and near each other with very many common points and they serve the same communities and seek from them and do for them the same business and their facilities to do such business and their ability to secure the same are substantially equal. Nor in any of the circumstances and conditions of two companies is there good reason of which the state or its authorities can take cognizance for any discrimination between them and whatever rate of freight is fixed and prescribed for one should be enforced against the other. The line of said Rock Island Company between Omaha and Denver appears on the map hereto annexed marked "A."

In and by the provisions of the alleged act above entitled the legislative authority of the State of Nebraska, has attempted to fix maximum rates which the said defendant company may and shall charge for transportation of freight, whereas in the fourth section of said alleged act it is provided as follows: "All railroads or parts thereof which may have been built in this state, since the 1st day of January, 1899, or may be built before the 31st day of December, 1889, shall be exempt from the provisions of this act until the 31st day of December, 1899," which provision was inserted and incorporated in the said alleged act for the express purpose of exempting the said Rock Island Company from the operation of its provisions, its name being suppressed in order to conceal the injustice of the discrimination in its behalf thereby secured.

Under the said alleged act the said Rock Island Company can, but the defendant company cannot charge and

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receive compensatory rates for transportation of freight on their respective lines if the said act be valid and constitutional and by the discrimination in the same in favor of the former and against the latter without just reason the said defendant company and your orators and all others its stockholders will be deprived of the equal protection of the laws.

XII. The several roads of the defendant company delineated on the annexed map, as well as those running from one state into another as those which begin and end in this state are operated together as one connected continuous line without discrimination of one or against another upon regulations, tariffs and schedules common to them all by through trains and cars without change, interruption or delay so that every carriage from place of shipment to place of destination, and upon all of said roads business originating in one state and destined to another and business beginning and ending in this state are carried on together in the same cars and trains, and under the same regulations without difference or discrimination or regard to boundaries of states.

The rates of charges for the transportation of freight on certain of the company's interstate lines have expressly and upon due inquiry in that behalf been approved by the interstate commerce commission as reasonable, just and fair to all concerned and none of the company's rates have been in any way disapproved. The rates of charges prescribed by House Roll 33, for transportation of freight originating at and destined to points within the state, are one-third less

than those now and heretofore charged by said compan, and if the said House Roll 33, is put in force, the reduction of rates on said business will be so great as necessarily to greatly reduce the rates which the company can charge upon interstate business on its lines; for the citizen desiring carriage of his property in the interior of the state to a point beyond is by the said reduction of rates within the state invited to and will ship the same on said company's lines to a point on the Missouri River, paying for such service the rates prescribed by said House Roll 33 and reship thence on the company's road to destination, paying the rates charged by it for such services, the two rates so paid being much less than the present through rates from the place of beginning to the end of shipment. The only inconvenience which the said shipper will experience will practically be the rebilling of his freight at the river point. The same result is reached in the case of a shipment from a point in Illinois, Iowa or Missouri into the interior of the state.

The intimate and necessary relations of interstate and local traffic and of the rates of charges thereon are demonstrated by the methods of those charged with making such rates when not acting under the constraint of arbitrary rules such as are prescribed by House Roll 33. Such officers of the defendant company do not and never have acted upon a consideration of one of those two classes taken by itself, but they have always acted upon a consideration of all the conditions of both, and what is true of them is true of the same officers of all other great interstate systems.

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The states traversed by the roads of the defendant company all compete together in the markets of the world in agricultural products. If one of those states being nearer the great markets reduce the rates of charge on business which begins and ends within it below cost to the road in doing the business and a fair profit, the loss must be made good by increased charges on through business originating beyond its borders with certain disadvantage to the more remote state and the possible effect of drawing it out of the market.

And your orators submit that forasmuch as the Constitution of the United States has committed to Congress the power to regulate commerce among the states thereby withdrawing the same from every degree of interference on the part of the states, the said company in and by virtue of its character as an interstate carrier is not subject to the jurisdiction of the State of Nebraska; and its business, both that which begins and ends within the state and that which begins in one state and ends in another, the two classes being intimately related and connected together, is in its whole compass and all its diversities beyond and outside of the power of said state to regulate or in any way interfere therewith and that the said House Roll 33 is for that reason repugnant to the said constitution and is null and void:

XIV. The bill for the said alleged act was on the 14th day of January, 1893, introduced into the House of Representatives of the legislature at its last session, and was the subject of consideration, amendment and action upon several

days, and on the 11th of March was declared passed, but the same was not read at large in that House on three different days but was put upon its passage without being so read. But in engrossing the said bill, divers radical changes were made in the said bill without the action or knowledge of the said House, which erroneously engrossed bill was transmitted to the Senate, in which body the same was the subject of consideration, amendment and action, but was not read at large on three different days, and was put upon its passage without being so read, the protest, oral and written, then and there made by several senators to the contrary notwithstanding. Being returned to the said House, it was then enrolled and the enrolled bill in many radical particulars differed from that passed by the two houses, in which form it was signed by the governor so that it happened that the bill passed by the two houses was never signed by him, and that signed by him never passed the two houses.

XV. The alleged act first above entitled was in its frame, terms, provisions and purpose, amendatory of the act entitled "An act to regulate railroads, prevent unjust discriminations, provide for a board of transportation and define its duties and repeal Articles five and eight of chapter 72 entiled 'Railroads' of the Revised Statutes" and all acts and parts of acts in conflict therewith, approved March 18, 1887. The act first in this paragraph mentioned does not contain the sections of the act secondly mentioned so amended nor repeal those so amended in disregard of the provisions of

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the constitution of this state, and by reason thereof the same is void.

XVI. The said House Roll 33 denies to the said company the right to be heard in the courts of the said state upon the question of the reasonableness of the rates of charge therein prescribed, either when the same are originally established nor afterwards, nor in its defense either in an action against it for damages alleged by a party on account of a greater charge by it, nor of an indictment against it therefor, and at the same time imposes upon the Supreme Court the administrative function of a preliminary inquiry, whether the Board of Transportation may at its option increase the schedule of rates to a certain extent; and on the other hand commits to the said board of executive officers the judicial question of the reasonableness of the rates fixed by said act, all which confusion of the powers and functions of the judicial and executive departments of the government is repugnant to the constitution and the provision thereof that no person or collection of persons of one of these departments shall exercise any power properly belonging to either of the others, and is for that reason null and void.

XVII. On the third day of July instant and as soon as your orators learned the nature of House Roll 33, they addressed to Charles E. Perkins, who is president of the company, a letter signed by them in the words and figures following, that is to say:

BOSTON, July 3rd, 1893.

C. E. Perkins, Esq., President Chicago, Burlington & Quincy Railroad Company, Sears Building, Boston:

SIR—The undersigned creditors and stockholders of of our company hereby call your attention to an act lately passed by the legislature of Nebraska attempting to fix maximum rates to be charged by Railroad Companies in that state, for transportation of freight. We are informed, and confidentially believe that the result will be the reduction of the earnings of the roads, below the point at which their operating expenses, fixed charges and a reasonable return to their stockholders can be realized.

"We call your attention to several grave objections to this enactment.

"*First.* The provisions of the Constitution of the State of Nebraska are not observed in the proceedings of the legislature while the bill was under consideration by reason of the fact that the same was not read on three successive days in each of the two Houses, and the bill as voted upon by the Houses, radically differs from that signed by the governor.

"*Second.* The bill is obnoxious to the constitutional objections that it does not provide for a judicial inquiry into the reasonableness of the charges therein provided for.

"*Third.* The charges prescribed in the act are unjust and unreasonable and are unequal as between different localities on the line of the roads.

"*Fourth.* That the statute discriminates between the different railroad companies in the state in such a manner

that one of the great lines of railroad, the Rock Island road is not subject to the new rates.

"Other objections in the same line as those mentioned above may be urged against the validity of this legislation, but those mentioned justify us as stockholders of the company in insisting that the directors should take some measures effectually to protect our interests in the company against the operation of the statute. We insist to you and the board of directors that the company shall decline to put the rates in operation and by proper legal proceedings test the validity of the statute in the courts. Your attention is called to the fact that the statute takes effect of the first of August next. It is therefore of the utmost importance that your board take action upon the matter of this communication at the earliest practicable moment."

At a meeting of the board of directors of the said company held on the 6th of July, 1892, the above letter was presented by the president of the said company to the board, whereupon it was voted as follows:

Voted that while the board agrees to the views expressed in that letter, as to the objections to the enactment referred to, and agrees that the effect of reducing the rates for the transportation of freight as provided in said law will be disastrous to the company, yet it regrets that it is unable under the circumstances to comply with the request and the president is directed hereby to communicate the fact to the above named stockholders.

The said board refusing to accede to the request of your

orators without assigning any reason therefor, or taking any steps to protect the company and its property from the unjust and illegal proceedings threatened by the Board of Transportation, and thereby refusing to exercise their judgment in the exigency has been grossly derelict in their imperative duty. This bill is not exhibited before your honors by collusion with the said company or its officers or directors for the purpose of giving jurisdiction to this Court of the questions herein by your orators raised, or which may be raised, upon the said act. It has not been practicable for your orators to solicit and secure the co-operation of other stockholders of the company in the application of the board of directors or in exhibiting this bill in consequence of the necessity of immediate action in that behalf.

And your orators pray that others may be admitted parties hereto as stockholders of the company if they desire to do so, they paying and undertaking to pay their share of the expenses of this suit.

XVIII. On the 24th day of July instant the said defendant company exhibited its bill in this Honorable Court, wherein it assailed said House Roll 33 substantially on the grounds hereinbefore alleged, but alleged that its directors and officers did not dare to take the responsibility of disregarding the said act on account of the severe penalties to which they would expose said company by so doing, but complaining of further oppressive acts threatened by said board of transportation and its officers, and from said bill

your orators have drawn a large part of the facts hereinbefore set forth.

And your orators well hoped that the said defendants would not interfere with said company, its business or property under the pretense that the said alleged act was binding upon any of them, but they refuse so to do.

All which actings, doings, refusals and pretenses are contrary to equity and good conscience, and tend to the manifest wrong, injury and oppression of your orators and all other stockholders of said company in the premises.

But now so it is, may it please your honors, the said defendants, conspiring and confederating together, and with divers others to your orators unknown, whose names when discovered they pray may be herein inserted as defendants, refuse so to do.

To the end, therefore, that the said defendants may, if they can, show why your orators should not have the relief herein prayed, and that they answer this bill of your orators according to the course and practice of the Court, but not under oath, the answer of each of them under oath being hereby expressly waived, and that the said The Chicago, Burlington & Quincy Railroad Company, its officers, agents, servants and employees be, by the order and injunction of your honors, enjoined from making or publishing or posting a schedule of rates to be charged by it for transportation of freight on or over its roads in Nebraska from one point to another therein, according to the terms, provisions and commands of said House Roll 33, and from reducing its charges

for such service from the rates now charged by it to those prescribed by said act, and from obeying, observing or conforming to the commands, provisions, injunctions and prohibitions of said act, or any thereof, and that the said Board of Transportation and the individual defendants be in like manner enjoined from entertaining, hearing or determining any complaint against said company, for or on account of any act or thing by it or its officers, agents, servants or employees done, suffered or omitted, which may be commanded or forbidden by said act, and from instituting or prosecuting, or causing to be be instituted or prosecuted, any action or proceeding, civil or criminal, against said company for any act or thing by it or its officers, agents, servants or employes done or omitted which may be forbidden or commanded by said act, and particularly for not reducing its present rates of charges for transportation of freight to those prescribed in said act. And that said Attorney General be in like manner enjoined from bringing or aiding in bringing, or causing or advising to be brought, and proceeding by way of injunction or mandatory or other process, or civil action or indictment, against said company for or on account of the non-observance by said company of the provisions of said act; then, and in that case, that his name be inserted in this bill as a defendant, and he be at once in like manner enjoined from instituting or prosecuting, or causing to be instituted or prosecuted, such actions or proceedings, or any of them, and that the injunction hereinbe-

fore prayed be operative against him as if he were now here named and impleaded as a party hereto.

And that it be by the decree of your honors declared that the alleged act above entitled is repugnant to the provisions of the Constitution of the United States for the reasons in that behalf hereinbefore assigned by your orators and that the proceedings of the legislature of this state in the passage of said act were contrary to the constitution of said state and were ineffectual to pass or enact the said roll as a law. And that it be decreed that the injunction hereinbefore prayed be perpetual, and that your orators have their costs of this their bill, and all such other and further relief as the circumstances require and is agreeable to equity and good conscience.

May it please your honors to grant unto your orators suing as well on their own behalf as on behalf of all other stockholders of the Chicago, Burlington & Quincy Railroad Company, not only the writ of injunction issuing out of and under the seal of this Honorable Court directed to the defendants, the Chicago, Burlington & Quincy Railroad Company, its officers, agents, servants and employees, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said board, commanding and enjoining them and their dep-

uties, clerks and servants as hereinbefore prayed, but also a writ of subpœna issuing in like manner and directed to the said defendants commanding them that at a day therein to be inserted, they appear before your honors in this Honorable Court, then and there to answer the premises, stand to, perform and abide such order and decree as to your honors shall seem meet and equitable.

And your orators will ever pray, etc.

DISTRICT OF NEBRASKA, SS:

J. M. Woolworth being duly sworn says that he is the solicitor for the plaintiffs in the foregoing bill; that they are non-residents, and now absent from this state; that he has read the said bill and knows the contents thereof, and the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true. That his information upon most of the matters contained in the said bill is derived from or confirmed by the bill exhibited in the Circuit Court of the United States for said district by the Chicago, Burlington & Quincy Railroad Company, on the 24th instant.

Subscribed and sworn to before me this 28th day of July, 1893.

FANNY M. PRATT,
Notary Public.

Distance in Miles

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100

150

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Exhibit "B".

Distance in Miles	Name of Distance Tariff	Class 1	Class 2	Class 3	Class 4	Class 5	Class A	Class B	Class C	Class D	Class E	Wheat, Flour and Flax Seed	Other Grain and Mill Stuff	Lumber	Salt, Lime and Cement	Horses and Mules	Cattle and Calves	Hogs	Sheep	Coal, Hard Per ton	Coal, Soft Lump, Per ton	Coal, Soft Pea, Per ton
5	Wisconsin	9	8	7	6	4	4	3.5	3	3	3	3.5	3.5	3	3	3.3	3	3.75	3.75	...	35	35
	Minnesota	12	10	8	6	5	5	4	4	3	2	3.50–4	3.5	3	....	3.3	3	3	3	...	...	...
	Dakota	12	10	8	6	5	5	4	3.5	3	2.5	5.5	5	4	3	5.5	5	6	6	...	...	...
	Kansas	13	11	9	7	6	6	5	4	4	3	5	4	4.5	4⅓	10.00	9.00	9.00	6.00	...	60	60
	Newberry Rates	13	11	9	7	5	5	4	3	3	2	4	4	4	3	10.75	9.75	8.5	8.4	60	30	25
50	Wisconsin	30	25	20	15	11.8	11.8	9	7.5	6.5	6	10	10	7.5	7	11.00	10	12.3	12.3	...	...	...
	Minnesota	30	25	20	15	12	12	11	9	8	6	10.10	10	8	....	11	10	10	10	...	...	...
	Dakota	32	27	21	16	13	13	11	10	9	6	9–10.5	9	8.5	10	12.65	11.5	13	13.5	...	...	...
	Kansas	32	29	25	21	15	15	11	9	7	5.5	8	6.5	8	11	22.00	18.00	18.00	15.00	...	115	115
	Newberry Rates	24	19	14.5	12	10	10	8	7	6	3.5	7	7	7	5.5	17 5	16.5	13	12	96	66	52
100	Wisconsin	40	33	27	20	16	16	14	12	10	8.6	12.5	12.5	12	10.6	16.5	15	18.5	18.5	...	...	...
	Minnesota	40	33	27	20	16	16	14	12	10	8	12.5–15	12.5	13	....	16.5	15	15	15	...	...	...
	Dakota	42	36	27	21	17	17	15	13	11	8	13–15.5	13	13.5	15	18.15	16.5	18.5	19.5	...	...	...
	Kansas	52	44	38	31	27	24	16	14	10	7.5	10½	8½	13	15⅓	33.00	27.00	27.00	20.00	...	150	130
	Newberry Rates	29	25	21	20	16	16	11	9	7	6	10.5	9	6	9	25	21.5	18	16	136	100	74
150	Wisconsin	50	42	33	25	20	20	17.5	15	12.5	10.4	15	15	14.5	13	19.25	17.5	21.7	21.7	...	...	...
	Minnesota	50	42	33	25	20	20	18	15	13	10	15–18	15	15.5	13	19.25	19.5	17.5	17.5	...	...	...
	Dakota	57	48	37	29	23	23	20	17	14	11	16–18.5	16	16	18	20.9	19	21.6	22.5	...	...	...
	Kansas	63	55	49	40	35	29	21	19	13	10.5	14	12	16	20⅓	41.00	36.00	36.00	25.00	...	215	215
	Newberry Rates	41	36	32	24	22	23	14	13	9	6.5	13	11	9	12	30	25.5	21	19 00	170	115	89
200	Wisconsin	60	50	40	30	24	24	20	17	15	12.5	17.5	17.5	17	15.3	22	20	25	25	...	...	...
	Minnesota	60	50	40	30	24	24	21	18	15	12	17.5–20.5	17.5	18	15.3	22	20	20	20	...	...	...
	Dakota	72	61	47	36	29	29	25	22	18	14	18.5–21	18.5	18.5	22	23.65	21.5	24.6	25.5	...	...	...
	Kansas	73	65	58	46	41	34	26	22	16	12	15¼	13¼	19	23	47.00	41.00	41.00	30.00	...	...	...
	Newberry Rates	55	48	43	36	31	29	20	17	12	8	14	13	11	13	35	29.6	24.00	22	200	130	104
250	Wisconsin	68	57	45	34	27	27	22.5	19.5	16.8	14	18.7	18.7	18.7	16.8	24.75	22.5	28	28	...	...	...
	Minnesota	68	57	45	34	27	27	22.5	19.5	16.8	14	18.7	18.7	18.7	16.8	24.75	22.5	28	28	...	...	...
	Dakota	82	70	53	41	33	33	29	25	21	16	21–23.5	21	21	25	26.4	24	27.5	28.5	...	...	...
	Kansas	78	70	63	51	46	39	31	25	18	13.5	16	14	21	24⅔	49.50	43.50	43.50	31.00	...	280	280
	Newberry Rates	58.5	53	47	41	35	30.5	22.5	18.5	13.5	10	14.5	13.5	14.5	15.5	38.75	34	28	23.9	220	140	114
300	Wisconsin	75	63	50	38	30	30	25	22	19	15	20	30	20	18.7	27.5	25	31.2	31.2	...	...	...
	Minnesota	75	63	50	38	30	30	26	23	19	15	20–23	20	23	18.7	27.5	25	25	25	...	...	...
	Dakota	92	78	60	46	37	37	32	28	23	18	23–25.5	23	23.5	27	29.15	26.5	30	31	...	...	...
	Kansas	83	75	68	56	51	44	34	27	21	16	16½	14½	22	27	51.50	46.00	46.00	32.00	...	325	325
	Newberry Rates	62	57	52	46	39	32	26	20	15	12	16	14	17	18	42.5	38.5	32	25.9	240	150	124
350	Wisconsin	83	69	55	41.5	33	33	27.5	24.3	20.5	16.3	21.3	21.3	21.5	20.5	30.25	27.5	34.3	34.3	...	...	...
	Minnesota	83	69	55	41.5	33	33	27.5	24.3	20.5	16.3	21.3	21.3	21.5	20.5	30.25	27.5	34.3	34.3	...	...	...
	Dakota	102	87	66	51	41	41	36	31	26	20	24–26.5	24	25.5	30	31.9	29	32.5	33.5	...	...	...
	Kansas	88	80	73	61	56	49	36.5	30	23	19	17¾	15¾	23	32	60.50	48.50	48.50	34.00	...	380	380
	Newberry Rates	69	62	57.5	51	40	35	29	23	17.5	13.5	17	15	19.5	20.5	46	41	34.5	28.3	260	160	129
400	Wisconsin	90	75	59	45	36	36	30	26	22.6	17.6	22.5	22.5	24	22.6	33	30	37.5	37.5	...	...	...
	Minnesota	90	75	60	45	36	36	32	27	23	18	22.5–25.5	22.5	28	22.6	33	30	30	30	...	...	...
	Dakota	110	94	72	55	44	44	39	33	28	22	25–28	25	26.5	33	34.65	31.5	35	36	...	...	...
	Kansas	110	102	85	76	70	59	46	36	31	22	19	17	30	37	66.00	51.00	51.00	37.00	...	410	410
	Newberry Rates	74	66	62	56	42	40	34	27	20	16	18	16	22	23	49.5	43.5	37.8	30.31	280	170	134

Exhibit "C".

Using the present rates, Chicago to Lincoln and Chicago to Omaha, and House Roll 33 rates beyond Omaha and Lincoln, the through rates will be as follows:

CHICAGO TO	BY WAY OF	CLASSES									
		Class 1	Class 2	Class 3	Class 4	Class 5	Class A	Class B	Class C	Class D	Class E
Harvard ..	Lincoln .	1.08	.89	.65	.52	.39	.47	.38	.32	.275	.24
	Omaha .	1.12	.94	.72	.53	.45	.50	.38	.32	.255	.22
Hastings. .	Lincoln .	1.09	.90	.67	.54	.44	.49	.39	.32	.275	.25
	Omaha .	1.17	.98	.76	.56	.48	.53	.395	.336	.27	.225
Holdrege ..	Lincoln .	1.22	1.03	.80	.60	.51	.56	.425	.365	.30	.255
	Omaha .	1.30½	1.09	.86	.67	.565	.59	.455	.37	.295	.245
Superior ..	Lincoln .	1.12	.94	.72	.56	.46	.51	.40	.34	.285	.25
	Omaha .	1.23	1.03	.81	.625	.52	.57	.405	.345	.28	.23
McCook. ..	Lincoln .	1.37	1.16	.915	.73	.61	.625	.495	.405	.325	.285
	Omaha .	1.37	1.16	.935	.75	.635	.62	.505	.40	.32	.275
Present rates Chicago to.	Lincoln .	.80	.65	.46	.34	.28	.33	.28	.23	.205	.19
	Omaha .	.75	.60	.42	.36	.25	.30	.25	.20	.175	.16

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEBRASKA.

HENRY L. HIGGINSON, ROBERT H. GARDNER, WM. C. WELLS, GEO. A. GARDNER, W. S. DEXTER, CHARLES A. CUTTING, F. GORDON DEXTER, W. POWELL, MASON R. PIERSON BEEBE, S. E. PEABODY, and HENRY STOCKTON.

Complainants.

VS.

THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, GEO. H. HASTINGS, Attorney General; JOHN C. ALLEN, Secretary of State; EUGENE MOORE, Auditor of Public Accounts; JOSEPH S. BARTLEY, State Treasurer, and A. R. HUMPHREY, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and WILLIAM A. DILWORTH, J. M. KOUNTZ and J. W. JOHNSON, Secretaries of the Board of Transportation of the State of Nebraska.

Defendants.

ANSWER IN EQUITY.

To the Honorable, the Judges of the Circuit Court of the United States for the District of Nebraska:

The joint and several answer of Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State

Treasurer and A. R. Humphrey, Commissioner of Public Lands and Buildings, officers of the State of Nebraska, and constituting the Board of Transportation of the State of Nebraska, and Willism A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, the defendants now and at all times hereafter saving and reserving unto themselves all benefit and advantage of exception which may be had, or taken to the many errors, uncertainties, and other imperfections in the said complainants' said bill of action contained, for answer thereto, or unto so much and such parts thereof as these defendants are advised is or are material or necessary for them to make answer unto, these defendants for answer say:

I.

True it is the said Geo. H. Hastings is the Attorney General, John C. Allen is the Secretary of State, Eugene Moore is the Auditor of Public Accounts, Joseph S. Bartley is the State Treasurer, and A. R. Humphrey is the Commissioner of Public Lands and Buildings, and are each duly qualified and acting, and constitute the Board of Transportation of the State of Nebraska, and that William A. Dilworth, J. M. Kountz, and J. W. Johnson are the Secretaries of said board.

But these defendants allege that they and each and all of them are officers and agents of said State of Nebraska, and have no personal or pecuniary interest whatever in the

event of this suit, or in the result of the several matters, and things charged and set forth in said complainants' bill of complaint herein filed, and are not proper parties thereto, but that said bill of complaint should of right have been brought against the State of Nebraska, and not against these defendants, or either of them, and that the said State of Nebraska is the real party in interest, and that said State of Nebraska hath not and doth not in any way whatever consent to the bringing of this action, and hath not and doth not submit in any way to the jurisdiction of said court to hear and determine the several matters in difference charged and set forth in complainants' bill of complaint, and these defendants submit that under the eleventh amendment of the Constitution of the United States, the courts of the United States are wholly without jurisdiction to try, hear and determine the several matters in difference, charged and set forth in said complainants' bill of complaint, and that under the Constitution of the United States and the Constitution and Laws of the State of Nebraska, said complainants have a full, complete and adequate remedy at law for all the matters alleged and set forth in said complainants' bill of complaint.

II.

Further answering, these defendants say true it is that said Henry L. Higginson, Robert H. Gardner, William G. Weld, George A. Gardner, W. S. Dexter, Charles U. Cutting, F. Gordon Dexter, W. Powell, Mason R. Pierson

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Beebe, S. E. Peabody and Henry Stockton, complainants herein, are, and for six months last past have been stockholders and bond owners of the said defendant, the Chicago, Burlington & Quincy Railroad Company, but deny that the amount is as set forth and charged in said complainants' bill, but these defendants allege and charge the truth to be that soon after the passage and signing by the governor of House Roll 33, commonly known as the Newberry Bill, which is mentioned and described in said complainants' bill of complaint, these complainants entered into a conspiracy to and with the said defendant, the Chicago, Burlington & Quincy Railroad Company and its officers and managers, whereby a plan was devised with the end in view to defeat the legislation, so aforesaid had, and prevent the carrying into operation of said bill and the several provisions and commands thereof, and at the same time to avoid the penalties and forfeitures therein prescribed during the pendency of the litigation, and to have the same declared unconstitutional by a decree of this Court, and in order to give this Court jurisdiction thereof, said Chicago, Burlington & Quincy Railroad Company, and its officers and managers did procure to be made, a pretended demand upon the president and board of directors of the Chicago, Burlington & Quincy Railroad Company; that said officers should decline to put the rates prescribed by said House Roll 33 in operation in the State of Nebraska, and to test the constitutionality of said House Roll 33 in the courts; that said defendant, the Chicago, Burlington & Quincy Railroad

Company pretended to refuse such demand; but these defendants aver that while said Chicago, Burlington & Quincy Railroad Company, its officers and managers pretended to refuse such demand, or to accede to such requests, have in fact complied therewith and procured to be instituted, an action in this Honorable Court, the object and the prayer of which is to have said House Roll 33 declared unconstitutional and void, and procured an order of injunction to be issued therein preventing said Board of Transportation from putting into effect the rates upon freight carried upon said line of road as commanded and provided in said bill, and the said Chicago, Burlington & Quincy Railroad Company, one of said defendants, still confederating and conspiring to and with said complainants, procured said complainants and each of them to institute this action in this honorable Court, and to procure an order of injunction herein against the said Chicago, Burlington & Quincy Railroad Company to be issued out of this Court preventing and prohibiting said Chicago, Burlington & Quincy Railroad Company from putting into operation the rates mentioned and set forth in said House Roll No. 33, and from carrying into effect any of the provisions and requirements of said law.

III.

These defendants further answering say, that the Chicago, Burlington & Quincy Railroad Company, complainant, is a domestic corporation of the State of Nebraska, and became such domestic corporation of the State of Nebraska by reason of its consolidation with the Burlington & Missouri River Railroad Company in Nebraska, on or about the first of January, 1880, as hereinafter more fully set forth; and that by reason of such consolidation the said Chicago, Burlington & Quincy Railroad Company, complainant, assumed all the liabilities, duties, responsibilities and burdens of the said Burlington & Missouri River Railroad in Nebraska, and freely and voluntarily and of its own accord, submitted itself to the Constitution and Laws of the State of Nebraska, and accepted the privileges of doing business in this state, under and subject to the provisions of the Constitution and Laws of the State of Nebraska; and ever since said first day of January, 1880, said Chicago, Burlington & Quincy Railroad Company became, and now is a body corporate and pursuant to, and in accordance with the laws of the State of Nebraska, and is subject to all the limitations and liabilities imposed upon domestic corporations, and that it is not a corporation organized and existing under the laws of the State of Illinois, nor of any other foreign state, and that it ever since has been and still is amenable to the constitution and laws of the State of Nebraska.

IV.

These defendants further answering say, there was chartered in 1849 by the State of Illinois a railway company under the name of the Aurora Branch Railroad Company, that afterward in the year 1852, the said company was re-organized in the name of the Chicago & Aurora Railroad Company, and that afterward in the year 1855, the name of said company was changed to the Chicago, Burlington & Quincy Railroad Company; that the said Chicago, Burlington & Quincy Railroad Company thereafter obtained by purchase, consolidation or otherwise, the Central Military Tract Railroad, the Northern Cross Railroad, and the Peoria & Oquaka Railroad, which completed its line of road from Chicago, Illinois, to Quincy, in the State of Illinois and to Burlington in the State of Iowa.

In the year 1854, the legislature of the State of Iowa chartered the Burlington & Missouri River Railroad Company, a company organized for the purpose of building a railroad form Burlington, in the State of Iowa, westward across the State of Iowa to the Missouri River, and in pursuance of the said charter, said company was duly organized and the road was built for a distance of seventy-five miles west from the City of Burlington, Iowa, when work was suspended for a period of five years or until the year 1864 in which year the Chicago, Burlington & Quincy Railroad Company through its officers renewed the con-

struction of said line of road, and that the same was completed to a point on the Missouri River almost due east from Plattsmouth, Nebraska, in the year 1870. Soon after the completion of the said railroad as aforesaid, to the Missouri River and in the year 1873, said Burlington & Missouri River railroad became and was consolidated with the said Chicago, Burlington & Quincy Railroad Company, and the same then became and has ever since continued to be a part of the said Chicago, Burlington & Quincy System.

That on or about the year 1869 there was incorporated and organized under the laws of the State of Nebraska, a corporation under the name of the Burlington & Missouri River Railroad Company in Nebraska, for the purpose of constructing a line of railroad from Plattsmouth in the State of Nebraska to a point at or near Fort Kearney Military Reservation, in the State of Nebraska and which said incorporation constructed a line of railroad from the Missouri River at Plattsmouth in the State of Nebraska, to a junction with the Union Pacific Railroad Company at Kearney, Nebraska, a distance of 196 miles.

These defendants further answering say, that prior to January, 1880, there had been incorporated under the laws of the State of Nebraska the Omaha & Southwestern Railroad, the Nebraska Railroad, the Lincoln & Northwestern Railroad, the Atchison & Nebraska Railroad, which said railroad corporations had their respective termini within the limits of the State of Nebraska, and had been constructed and were operated within the limits of the State of Ne-

braska, but that on or before the first day of January, 1880, the said Burlington & Missouri River Railroad Company in Nebraska had become the lessee of said respective roads last above named, and so operated the same, and that all of said railroads became a part of the system of the Chicago, Burlington & Quincy Railroad Company, under and by virtue of its consolidation with the Burlington & Missouri Railroad Company in Nebraska, as hereinafter stated.

That on or about the first day of January, 1880, under and by virtue of section 114 of chapter 16 of the Laws of Nebraska, relating to corporations, the Chicago, Burlington & Quincy Railroad Company became consolidated with the Burlington & Missouri River Railroad Company in Nebraska, by which the said Chicago, Burlington & Quincy Railroad Company became subject to the same liabilities and restrictions as were and are imposed by the laws of the State of Nebraska upon other railroad companies, and became possessed of such powers, franchises and immunities and liable to such special restrictions and liabilities as the said respective corporations were within this state possessed of and subject to, under any laws of the State of Nebraska peculiarly applicable to them or either of them at the time of such consolidation, as is provided in said section of the statute.

That under and by virtue of such consolidation the said Chicago, Burlinton & Quincy Railroad Company pretended and claimed, and has ever since pretended and claimed, that it became, was and is a domestic corporation

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of the State of Nebraska, within the meaning of section 8 of article 11 of the Constitution of the State of Nebraska, which provides:

"No railroad corporation organized under the laws of any other state, or of the United States and doing business in this state, shall be entitled to exercise the right of eminent domain, or have power to acquire the right-of-way or real estate for depot or other use, until it shall have become a body corporate pursuant to and in accordance with the laws of the state."

That the said Chicago, Burlington & Quincy Railroad Company, complainant, asserted all of said rights and priveleges granted to domestic corporations under said section 8 of article 11 of the constitution of the State of Nebraska, in a suit lately pending in the Supreme Court of the State of Nebraska, wherein the State of Nebraska was plaintiff and the Chicago, Burlington & Quincy Railroad Company was defendant, and in which suit it was adjudged and determined upon the pleading of the Chicago, Burlington & Quincy Railroad Company filed therein that it, the said Chicago, Burlington & Quincy Railroad Company, became and was by the act of its said consolidation a corporation pursuant to and in accordance with the laws of the State of Nebraska, and entitled to the privileges granted in said section of the constitution to domestic corporations and subject to the same control, duties and liabilities, and that it is not a corporation organized and existing under the laws of the State of Illinois nor of any other foreign state.

That the Nebraska & Colorado Railroad, Chicago, Nebraska & Kansas Railroad, Republican Valley, Kansas & Southwestern Railroad, the Oxford & Kansas Railroad, the Lincoln & Black Hills Railroad, the Grand Island & Wyoming Central Railroad, the Republican Valley & Wyoming Railroad, and the Omaha & North Platte Railroad, now forming a part of the Chicago, Burlington & Quincy System, were each and all separately incorporated under the laws of the State of Nebraska, and which said roads when completed and ready for operation were forthwith turned over to the Chicago, Burlington & Quincy Railroad Company by lease for a long term of years, respectively; that said Republican Valley Railroad Company was consolidated with the Chicago, Burlington & Quincy Railroad Company about March 1st, 1882, and these defendants say that each and singular of the mileage of railroad operated by the Chicago, Burlington & Quincy System within the limits of the State of Nebraska, were constructed under and by virtue of corporations created under and by virtue of the laws of the State of Nebraska as hereinbefore set forth.

V.

And these defendants for further answer to complainants bill of complaint say, that they have no knowledge or information sufficient to form a belief as to whether or no the aggregate capital of the Chicago, Burlington & Quincy Railroad Company is $76,407,500, or that its funded debt

secured by a mortgage upon its said property including its liability on account of branch lines is $123,963,630, and have no knowledge or information sufficient to aver what proportion thereof is properly attributable to the lines of road and property of the complainant in the State of Nebraska; and therefore deny that the capital stock of said company is $76,407,500, and deny that $29,583,195, thereof is properly attributable to the lines of road and property in the State of Nebraska, and deny that the funded debt of the said company is $123,963,630, and deny that $46,840,569, is properly attributable to the roads and property in the State of Nebraska.

These defendants further answering deny that the capitalization of the whole system and property of the said company, including its bonded debt and other charges upon its property does not exceed the sum which would be necessary to reproduce the same or a like system and property, and deny that the capital and fixed charges attributable to the lines of road and property in Nebraska, as set forth in the bill of complaint, correspond to the cost and real and true value of such lines and property within the State of Nebraska; upon the contrary these defendants aver that the capitalization and funded debt secured by mortgage of the said company is much in excess of the real cost of said property, and does not represent money actually invested in the construction and equipment of its various lines of road, as hereinafter more fully and particularly appears, and say that the said lines of road within the limits of Nebraska did

not cost to construct and equip the same, as these respondents are informed and believe, a sum exceeding $15,000 per mile; and these defendants, upon information and belief, further say that the said lines within the limits of Nebraska could be reproduced and equipped at a sum of money not exceeding $15,000 per mile or $30,000,000.

These defendants in this connection further answering say upon information and belief that the capital stock of the said railway company has been increased from time to time in about the ratio in which the business and net earnings of the company increased, as shown on Exhibit "B," and that such continued increase of capital stock was largely for the purpose of absorbing such increased earnings by way of dividends upon such increased issues of stock, and for the purpose of having it appear to the public that excessive dividends were not being paid.

A statement of the capital stock of the Chicago, Burlington & Quincy Railroad Company outstanding in respective years from 1857 to 1892, inclusive, together with a statement of the net earnings of the company and of the rate per cent. and amount of dividends paid annually upon its outstanding stock, is hereto attached as Exhibit "B", and from which exhibit it is made to appear that between the years 1879 and 1880 the capital stock of the company was increased more than 70 per cent, or $23,408,740, for which the railroad company received no consideration; and that from the year 1880 down to 1893 the capital stock of the company has been increased from time to time nearly

40 per cent, or $21,995,200, and which said increasing of capital stock did not represent any cash received by the complainant company, and was without consideration; and that the whole amount of stock issued and outstanding for which the company received no consideration (commonly known as watered stock) amounts to $45,403,940, being three-fifths or the entire stock of the company, yet the dividends paid from year to year, with but few exceptions, are from 8 to 10 per cent on the entire stock outstanding of $76,408,500. And in this connection defendants aver that if the payment of cash dividends had been confined to the stock which actually represented cash invested in the railroad company for the construction and equipment of its lines of road, that the net earnings would have paid a dividend annually from 20 to 25 per cent, including interest upon the outstanding funded debt.

The defendants further say upon information and belief that the company was accustomed to pay its dividends quarterly upon its outstanding stock, and that attached hereto as Exhibit "C," is a statement showing in detail the dates of the declaring of the respective dividends with the rate per cent. thereof.

These defendants further answering say, that they are informed and believe, and upon information and belief, aver that in addition to the cash dividends paid upon the outstanding stock from year to year, as hereinbefore set forth, that the company from time to time in addition thereto, unlawfully issued large quantities of stock which was distrib-

uted among the previous stockholders in the ratio of their previous holdings of stock by way of stock dividends or otherwise, but for which the company received no consideration; that the amount of stock so issued, as defendants are informed and believe, was and is as follows:

Date.	*Per cent.*	*Old Stock.*	*Dividend Stock.*
1855, June 30,	5	$ 2,911,810	$ 145,590
1855, Dec. 31,	10	2,911,810	291,181
1856, Dec. 31,	10	2,911,810	291,181
1864, May 25,	11	6,571,140	722,825
1865, Oct. 31,	20	8,376,510	1,675,302
1867, Sept. 15,	20	10,399,010	2,079,802
1869, Mar. 15,	10	13,825,025	1,382,502
1880, May 3, (on capital)	20	54,413,197	10,882,639
1881, Jan. 1, (1879)	66 2-3	31,004,457	22,529,904
Total			$40,000,926

Defendants say in addition to the foregoing named cash dividends and the last above named stock dividends, that the complainant company in 1873, issued a dividend of twenty-five per cent upon its then outstanding stock in mortgage bonds upon the property of the complainant company.

These defendants, further answering say, that at the time of the consolidation of the roads now forming the Chicago, Burlington & Quincy System, to-wit; January 1st, 1880, that the entire outstanding debt secured by mortgage upon all of the constituent lines incorporated within the limits of the State of Nebraska, amounted to $33,489,000 and no more, and which represented all the funded debt assumed by the Chicago, Burlington & Quincy Railroad

Company upon said roads on account of said consolidation; and that since said consolidation a large amount of said mortgage indebtedness upon said Nebraska lines has been paid and discharged, so that there remains outstanding thereof, only the sum of $25,127,280.

VI.

These defendants further answering say, that the respective Nebraska railroad companies which became and constitute a part of the system of the Chicago, Burlington & Quincy Railroad, received large quantities of land from the State of Nebraska under private grants, the respective companies and amounts being as follows:

Atchison & Nebraska Railroad	12,841	acres
Burlington & Missouri River Railroad	70,104	"
Brownville, Ft. Kearney & Pacific Railroad, part of the Nebraska Railroad	19,989	"
Midland Pacific Railroad, part of the Nebraska Railroad	99,973	"
Omaha & South-western Railroad	99,730	"
Total	302,637	acres

And which said lands were worth exceeding $2,000,000, and that said companies realized therefrom more than $2,000,000. That in addition to the foregoing, the Burlington & Missouri River Railroad Company in Nebraska, received under land grant from the government of the United States, odd numbered sections to the amount of ten alternate sections per mile on either side of said road on the

line thereof under and by virtue of an act of Congress approved July 2d, 1864, and a separate resolution of Congress approved April 10th, 1869, and that the land so received by the Burlington & Missouri River Railroad Company in Nebraska, aggregated about two million and a half acres, and which would average in value more than six dollars per acre, and from which said company received more than $15,000,000.

These defendants for further answer say that the said Nebraska railroad companies which constitute a part of the Chicago, Burlington & Quincy System of road, in addition to the said land grants, received a large amount of county and other municipal bonds throughout the various counties through which its lines extended, which amounted to more than $600,000. And these defendants upon information and belief aver, that the amount realized by said respective Nebraska corporations from the respective land grants and municipal aid bonds was more than sufficient to pay half the cost of the construction and equipment of all said roads within the State of Nebraska, and was and is more than sufficient to pay half the expenses of constructing and equipping at this time a like system of roads.

VII.

These defendants for further answer say that they have no definite and positive knowledge as to the earnings of the Chicago, Burlington & Quincy Railroad Company upon its roads in the State of Nebraska for the year 1892, but upon information and belief aver, that the amount of said income was much more than the sum of $9,712,130.38, as set forth in the bill of complaint. They further say they have no definite and positive knowledge as to the amount of the operating expenses, taxes, rent of tracks, interest on bonds and sinking fund payments of the Chicago, Burlington & Quincy Railroad Company for the said year 1892, but upon information and belief aver that the reasonable operating expenses were much less than the sum of $6,045,956.21 as set forth in the complaint; and in that connection further say that they are informed and believe that the said company in the year 1892, in anticipation of the passing of a maximum freight bill, and to avoid the payment of what might appear to be a large dividend upon its capital stock, did purchase an unusually large amount of engines and other rolling stock, and did invest a large amount of money in other repairs and improvements with a view of having it appear that the operating expenses were large and the dividends to be paid upon the stock comparatively small. In this connection these defendants further say that in determining whether or no the company was reaping an unreason-

able profit over and above its investment and operating expenses, there should not have been deducted or taken into account the $2,305,127.26 representing interest paid upon bonds of the Chicago, Burlington & Quincy Railroad Company, for the reason that said bonds do not represent the real cost and value of its roads within the State of Nebraska, as has been hereinbefore more particularly set forth.

These defendants further answering say and allege the truth to be, that at least one-half of the tonnage, carriage and transportation upon the several lines of the Chicago, Burlington & Quincy Railroad Company in the State of Nebraska consist of grain hauled to eastern markets on a through or interstate rate, which has heretofore been placed at a very low figure, as compared with the local or state rate, thereby causing the local or state business to bear an unjust proportion of the burden of freight charges, and which excessive charges for local and state business have been made by the management of the Chicago, Burlington & Quincy Railroad Company in order to yield a large profit on the business of its lines, and by the way of illustration say, for the two years last past, and during the year 1892, corn was hauled from the State of Nebraska to Chicago, Illinois, at an average of 7 mills per ton per mile, while the average charge by the company per ton per mile for local tonnage was 1.359 cents, being nearly double the interstate rate upon corn. And these defendants allege the local rate should not be placed at a high figure as compared to the interstate rate, for that such high rate for local business is un-

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just and works a great wrong and hardship to the people of the State of Nebraska and is a discrimination against local shippers, and that it has been the policy of the management of the company at all times to make a low through or interstate rate, and to charge an unreasonable and unjust local rate upon shipments originating and ending within the state, and that the same applies to passenger traffic, in that the local traffic is charged for high rates and with large items of expenses in order to support the service for the accommodation of through travel.

These defendants further allege that during two years last past, and during the year 1892, the complainant company ran through freight trains entirely across the State of Nebraska from the Missouri River to the western boundary of said state, for the sole purpose of carrying through freight. That said freight trains stop only at division stations within the state, and that the expense of running said trains, and each and all of them, are charged against the lines of road within the State of Nebraska; yet true it is that said through trains did no business of any amount whatever within the said State of Nebraska, except to transport freight originating beyond the boundaries of the state, and being carried to points also beyond the limits of the State of Nebraska; whereby the fixed charges and operating expenses of the lines within the State of Nebraska are made to appear much larger than they are, in fact, and which said charges and operating expenses for the transportation of the freight on said through trains (no part of which originates within, or is

delivered to any point within the State of Nebraska) should not be added or computed in determining the cost of the fixed charges and operating expenses for transporting the local freight within the limits of the state, and that it is unjust and unfair to make high charges for local freight for the purpose of paying the operating expenses and fixed charges for such other traffic as hereinabove described.

VIII.

These defendants further answering say, that at the time of the consolidation of the Chicago, Burlington & Quincy Company with the Nebraska roads, as hereinbefore stated there existed in the constitution of the State of Nebraska, and still does exist the following provision, being Section 4 of Article XI.:

"Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the legislature may from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different roads of this state."

That at the session of the legislature of the State of Nebraska, for the year 1893, said legislature being advised and informed that the rates heretofore charged by the Chicago, Burlington & Quincy Railroad Company, and other railroad companies for the transportation of freight were excessive

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nd unreasonable, and that by reason of the matters and nings hereinbefore set forth, and that by reason of other nformation by the said legislature had, as the result of its wn wisdom, investigation and inquiry, did pass the law omplained of, in which it is provided among other things:

"That each of the railroads in the State of Nebraska hall charge, for the transportation of freight from any point n said state to any other point in said state, no higher or greater rate of charge, than is by this act fixed as the reasonable maximum rate for the distance hauled, and the reasonable maximum rates for the transportation of freight by railroad from any point in the state of Nebraska to any other point in said state, are declared and estalished to be as hereinafter in this section fixed for the distance named and any higher or greater rate for the distance hauled than that herein fixed and established, is prohibited and declared to be unlawful; and the reasonable maximum rate herein fixed and established shall be known as The Nebraska Schedule of Reasonable Maximum Rates."

These defendants aver and say that said legislature was clothed with the power and authority to investigate and determine and by law establish what should constitute reasonable maximum rates for the transportation of freight, and to so declare the same by law, and that such declaration and determination by law by the said legislature is conclusive and binding upon all parties, and is not subject to investigation or revision, except by the legislature of the state, or in such other manner as the state legislature may by law provide.

And in this connection these defendants further aver the said maximum rates so established by the said law are reasonable in fact. These defendants aver upon information and belief that the Chicago, Burlington & Quincy Railroad Company and other railroad companies within the State of Nebraska, by compliance and submission to said law, will receive sufficient earnings to pay a good and reasonable profit to them respectively.

IX.

And these defendants further answering allege that the rates for the transportation of freight within the State of Nebraska upon the several lines of railroad doing business therein, as fixed by House Roll 33, are a uniform reduction from local rates before this time in force within this state for a long period of years, and while it may appear that the rate fixed is a small charge for hauling twenty-five pounds of freight five miles, yet by a reference to the published schedule prices of the Chicago, Burlington & Quincy Railroad Company for the hauling of freight within the State of Nebraska which has been in full force and operation within this state for a long series of years last past, it will be found to be only a fraction of a cent lower than the published, posted and established rates made by the said Chicago, Burlington & Quincy Railroad Company and in force and operation in this state.

Classes D and E are classes provided for in said House Roll 33 and consist of such articles as sand, stone and the

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like, which are exceedingly heavy and are of small value. The rates fixed upon these two last named classes, as fixed in House Roll 33, are much higher than the rates which have been heretofore provided for, and are now in force upon the lines of the said Chicago, Burlington & Quincy Railroad Company, for Lincoln and Omaha, upon the same articles, which properly belong to the same class.

True it is that by the provisions of said House Roll 33 the rate upon lumber is higher for 85 miles than for 125, as the same appears upon the face of said bill, but the same is an error in the transcribing of said bill, and is one of those discrepancies, or errors that the said Board of Transportation under the provisions and requirements of said House Roll 33, has full power and lawful authority to correct. That by the terms, conditions and provisions of said House Roll 33 it is provided:

"That the Board of Transportation is hereby empowered and directed to reduce the rates on any class or commodity in the schedule of rates fixed in this act whenever it shall seem just and reasonable to a majority of said board so to reduce any rate, and said Board of Transportation is hereby empowered and directed to revise said classification of freight as hereinbefore in this act established, 'whenever it shall appear to a majority of said board, just and reasonable to revise said classification; provided, that said Board of Transportation shall never change the classification in this act established, so that by such change of classifica-

tion the rates on any freight will become higher or greater than in this act fixed'."

And these defendants deny that the said Chicago, Burlington & Quincy Railroad Company or any other railroad company doing business in the State of Nebraska has any right whatever to discriminate against any person, thing or place in the matter of freight charges, or charges for the transportation of passengers within the state by carrying freight for one person, or from one place, at less than the actual cost of such carrying, and then charge some other person for carrying or transporting freight for him from another place more than a reasonable rate, in order to cover the loss upon the lower rate.

And these defendants deny that under the provisions of House Roll 33, property will be taken for public use without just compensation, or without due process of law, and aver that the said Chicago, Burlington & Quincy Railroad Company, its stockholders, bondholders, officers, managers and employees are estopped from denying the reasonableness of rates for the transportation of freight which have been in force and effect by the voluntary action of said officers, managers and agents of the said Chicago, Burlington & Quincy Railroad Company within the State of Nebraska, for a long period of years last past, and which have been in many instances lower than the rates fixed by House Roll 33.

X.

These defendants further answering deny that the rates for the transportation of freight as fixed by House Roll

33, are lower than the rates in neighboring states similarly situated to the State of Nebraska, and these defendants further say that they have no knowledge as to the correctness of the tabulated statement referred to in the bill of complaint touching the comparison of rates between Nebraska and the states of Wyoming, Minnesota, Dakota and Kansas, and therefore deny the same, and leave the complainant to its proof in that regard; but upon the other hand these defendants say that the maximum rates fixed in Nebraska upon many commodities is much higher than the rates permitted in any of the last four named states; and further say that there are various considerations which enter into what would constitute a reasonable maximum rate in the said last four named states which would not and do not apply to the State of Nebraska.

These defendants submit herewith a table showing the maximum rates for carrying freight in the State of Nebraska, and in the State of Iowa, a state similarly situated to the State of Nebraska; and which is hereunto attached and marked Exhibit "D", and from which it is made to appear that the maximum rates fixed for the State of Nebraska are considerably higher than the rates fixed for the State of Iowa; and the defendants allege that the railroads in the State of Iowa since the reduction of rates upon freight in that state have earned as much money and have paid as large dividends as said railroads paid before such reductions were made; and that defendants believe that the railroads within the State of Nebraska would earn as much money,

and pay as large dividends if they would submit to and comply with the present maximum rate laws as they have heretofore. That the State of Nebraska for ten years and upwards last past has been steadily increasing in population, thereby increasing the tonnage and passenger traffic upon the several lines of roads doing business in this state, and that there is every reason to believe that said increase in population and railway traffic will continue for a great many years to come.

XI.

These defendants further answering deny that House Roll 33, excludes every mode of inquiry into the reasonableness of any of the schedule rates prescribed herein, and deny that said rates are absolute and arbitrary, but say that all such matters are subject to investigation and inquiry, as is provided in said law, as follows, to-wit:

"Whenever any railroad company or companies in this state shall, in a proper action, show by competent testimony that the schedule of rates prescribed by this act are unjust and unreasonable, such railroad or railroads shall be exempt therefrom, as hereinafter provided. All such actions shall be brought before the Supreme Court, in the name of the railroad company or companies bringing the same, and against the State of Nebraska, and, upon the hearing thereof, if the Court shall become satisfied that the rates herein prescribed are unjust, in so far as they relate to the railroad company bringing the action, may issue their order directing the Board of Transportion to permit such railroad

to raise its rates to any sum in the discretion of the board, provided that in no case shall the rates so raised be fixed at a higher sum than that charged by such railroad on the first day of January, 1893."

And these defendants allege that the rates which were in force on January 1, 1893, upon the several lines of road of the Chicago, Burlington & Quincy Railroad Company doing business in the State of Nebraska, have been in force a time sufficiently long to determine their reasonableness, and the profits of the railroad companies received thereunder in the transaction of their business, whereby the Chicago, Burlington & Quincy Railroad Company, and the several railroad companies, are estopped from denying that such rates in force on the first day of January, 1893, were so low as to be unreasonable or unjust in that respect.

These defendants further say that under another section of said act, hereinbefore quoted, the Board of Transportation is empowered and directed to revise the classification of freight in said act established whenever it shall appear to a majority of said board just and reasonable to revise said classification.

These defendants further say that under an act of the legislature of the State of Nebraska, entitled "An act to regulate railroads, to prevent unjust discrimination, provide for a Board of Transportation, and define its duties, and repeal Articles 5 and 8 of Chapter 72, entitled 'Railroads' of the Revised Statutes, and all acts and parts of acts in conflict herewith," which was approved in the year 1887; the

State Board of Transportation of which these defendants ar
members was created, organized and established, it was mad
and is the duty of said Board of Transportation, compose
of the auditor of public accounts, the state treasurer, th
secretary of state, the commissioner of public lands an
buildings, and the attorney general of the State of Nebraska
to try, hear and determine all complaints made to said board
by any and all persons complaining of anything done o
omitted to be done by any railroad company in said state i
contravention of any of the provisions of said act, and t
inquire into the question of freight rates and charges, an
other matters and things in said act provided, and that i
the procedure under said act the railway companies ar
entitled to have, and must receive notice, and entitled t
introduce evidence and to have their day in court, and tha
after such investigation and hearing, should the judgment o
the Board of Transportation be adverse to the said railway
company, they have the right to appeal from such judgmen
of the Board of Transportation to the judicial tribunals o
the state.

XII.

These defendants for further answer deny that the pro
visions of said act exempting certain railroads from its oper
ation, to-wit as follows:

"All railroads or parts thereof which have been built
in this state since the 1st day of January, 1889, or may be
built before the 31st day of December, 1899, shall be exempt
from the provisions of this act until the 31st day of Decem-

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ber, 1899," is unconstitutional and is an unlawful discrimination against other railroad companies.

And in this connection the defendants further say that under and by virtue of the terms of the constitution of the State of Nebraska, the legislature of the state was empowered and authorized to establish maximum rates of charges for the transportation of freight on the different railroads, and that the legislature was not required to provide that the said maximum rates should be the same upon each and all of the roads within the State of Nebraska.

XIII.

These defendants further answering deny that the said Board of Transportation, on or about the first of August, 1891, or at any other time, found or determined that the local freight rates for the shipments of freights within the limits of Nebraska, were either reasonable, just or warranted; and these defendants further answering say, that since said date, the condition of affairs in the State of Nebraska has vastly changed, and that what was a reasonable maximum rate at that time, would be an unjust, unreasonable and unwarranted rate at this time; and that since said time the tonnage of freight, as well as passenger traffic has vastly increased within the limit of the State of Nebraska, whereby the same can be transported at lower rates; and further, that the values of all farm products and manufactured articles, as well as labor, has become much reduced since 1891, by reason whereof the cost of transportation should be likewise reduced, and that notwithstanding all the foregoing facts,

the interstate commerce rates upon the railroads in the State of Nebraska upon grain, coal, live stock, lumber, merchandise, and upon nearly all the commodities that the people of the State of Nebraska ship out of or into the state, have been raised about four cents per hundred pounds, and thereby increasing the revenues and income of railway companies; while upon the other hand the railway companies have made no corresponding reduction upon the local rates within the state, but which should have been reduced for the reasons hereinbefore stated.

XIV.

These defendants further answering admit that the Chicago, Burlington & Quincy Railroad Company owns different lines of road, most of which have one of their terminals at Lincoln, in the State of Nebraska, and running in different directions throughout the state, whereby, and by reason whereof, the City of Lincoln, within the State of Nebraska, is made a general distributing point by the Chicago, Burlington & Quincy Railroad Company for its different lines. And these defendants in this connection deny that the various lines of road of the complainant company are operated together as a continuous and connecting line, and deny that the carriage and shipment of freight over the said roads is a continuous carriage by the same cars, trains, engines and crews of men, but upon the contrary, say that all trains of cars arriving at Lincoln are there abandoned, and all freight is there redistributed and new trains of cars

are made up with new crews of men and with different engines, practically as much so as if each and all of the said several lines of road were operated by independent corporations.

These defendants further say that if there be intermingled in the same cars or trains of cars, local freight and interstate commerce freight, the same is the voluntary act of the complainant company and the defendants further answering, say that the Chicago, Burlington & Quincy Railroad Company cannot by the voluntary intermingling of interstate commerce freight with local freight take away from the jurisdiction of the State of Nebraska its constitutional and inherent power to establish a reasonable maximum freight rate for local business. Nor can said company by said intermingling of freight withdraw itself as a body corporate from the regulation and control of the general state government.

XV.

These defendants for further answer say that said House Roll No. 33, was duly passed by the House and Senate composing the legislature of the State of Nebraska, in strict conformity to law, and in obedience to the requirements of the Constitution of the State of Nebraska, and after such passage was duly signed and approved by the governor of the State of Nebraska, in form and manner as prescribed by the Constitution and Laws of the State of Nebraska; and that under and by virtue of the laws and of the constitution of the State of Nebraska, the same became a law and of full

force, virtue and effect; and these defendants deny that the bill for said act was not read at large in the house on three separate days, and deny that the said bill was put upon its passage without being read, and deny that divers radical changes were made in said bill without the action or knowledge of said house; and deny that said bill was erroneously engrossed, and deny that said bill was not read at large on three different days in the senate and deny that said bill was put upon its passage in the senate without being so read; and deny that in the enrollment of said bill that changes were made therein; and upon the contrary say that the bill as signed by the Governor was the same bill as passed by the two houses composing the legislature.

XVI.

These defendants deny that the Board of Transportation ever determined to reduce the rates on certain classes and commodities in the schedule of rates fixed in said act below the rates therein particularly described, as charged in the bill of complaint, and deny that said Board of Transportation has determined to revise the classification of rates in said act established, and deny that the rates in said act established, will reduce the net earnings of any of the railroad companies in the State of Nebraska in the sum of $100,000 every month or in any other sum whatsoever, and deny that the enforcement of said maximum rate law will in any manner whatsoever operate to confiscate the property of any of the railroads within the State of Nebraska; and further deny that the Board of Transportation intends to

do any matter or any thing other than that which it is their duty to do, and which by the terms of the law they are required to do, to the end that said law may be enforced.

And in this connection the defendants admit that they do mean and intend to see that the provisions of said law are enforced and that the respective railway companies within the State of Nebraska shall submit to the provisions of said law, and to that end admit that they intend to do and mean to do, whatsoever things may be proper, lawful and expedient to do, looking toward the faithful enforcement of said law and the subjection of the railway companies to the provisions thereof; but in this connection further deny that they ever contemplated, threatened or intended to bring any action or institute any suit or proceedings, prosecution or indictments against any of the respective railway companies, their officers, agents, or employees, and unless such railway company or companies through their officers, agents and employees violated one or more of the provisions of the said law, but in which event they admit that they would do whatever should be lawful and proper for them to do under the provisions of said law looking to the enforcement thereof.

And these defendants say that if there is any other matter, cause or thing in the bill of complaint contained material or necessary for these defendants to make answer unto and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, the same is not true to the knowledge or belief of these defendants, all which matters and things these defendants are ready and

willing to aver, maintain and prove as this Honorable Court shall direct.

And these defendants pray the same advantage of their aforesaid answer as if they had pleaded or demurred to the said bill of complaint. And these defendants pray leave to be dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

GEO. H. HASTIGS,
W. A. DILWORTH,
Attorneys for Defendants named in Answer.
JNO. L. WEBSTER,
Of Counsel.

Exhibit "A."

Statement showing the terminals and mileage of the lines operated by the Chicago, Burlington & Quincy Railroad in Nebraska.

BURLINGTON & MISSOURI RIVER RAILROAD IN NEBRASKA

Plattsmouth, Neb.	to Kearney	191.61

REPUBLICAN VALLEY RAILROAD

York, Neb.	to Central City	41.52
Nemaha, Neb.	to Salem, Neb	17.60
Nemaha, Neb.	to Beatrice, Neb	65.56
Beatrice, Neb.	to Wymore, Neb	11.87
Hastings, Neb.	to Colorado State line	239.41
Aurora, Neb.	to Grand Island, Neb	18.51
Aurora, Neb.	to Hastings, Neb	27.75
Table Rock, Neb.	to Amboy, Neb	142.84

OMAHA & SOUTHWESTERN RAILROAD

Omaha, Neb.	to Oreapolis, Neb	16.84
Crete, Neb.	to Beatrice, Neb	30.09

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NEBRASKA RAILROAD.

Nemaha, Neb.	to York, Neb	135.50
Nebraska City Bridge Line		1.20

ATCHISON & NEBRASKA RAILROAD.

Kansas State Line	to Lincoln, Neb	104.39
Rulo Bridge Line, Neb		3.39

NEBRASKA & COLORADO RAILROAD.

Chester, Neb.	to Fairmont, Neb	45.19
Kenesaw, Neb.	to Oxford, Neb	60.67
DeWitt, Neb.	to Colorado State Line	298.32
Edgar, Neb.	to Superior, Neb	26.53

CHICAGO, NEBRASKA & KANSAS RAILROAD.

Odell Junction	to Kansas State Line	5.28

REPUBLICAN VALLEY, KANSAS & SOUTHWESTERN RAILROAD.

Republican, Neb.	to Kansas State line	8.50

LINCOLN & NORTHWESTERN RAILROAD.

Lincoln, Neb.	to Columbus, Neb	73.13

GRAND ISLAND & WYOMING CENTRAL RAILROAD.

Grand Island, Neb.	to Wyoming State line	401.52

OMAHA & NORTH PLATTE RAILROAD.

Omaha, Neb.	to Schuyler, Neb	80.78

LINCOLN & BLACK HILLS RAILROAD.

Central City, Neb.	to Ericson, Neb	62.94
Greeley Center, Neb.	to Burwell, Neb	40.92
Palmer, Neb.	to Arcadia, Neb	54 02

OXFORD & KANSAS RAILROAD.

Orleans, Neb.	to Kansas line, Neb	59.61

REPUBLICAN VALLEY & WYOMING RAILROAD.

Culbertson, Neb.	to Wauneta, Neb	32.40

Exhibit "B".

Statement Showing Amount of Capital Stock of the Chicago, Burlington & Quincy Railroad Company from 1857 to 1892, inclusive:

Year.	Capital Stock.	Net Earnings.	Per Ct.	Dividend Paid. Amount.
1857.....	$ 2,911,810	$ 663,766	15	$ 697,902
1858.....	4,626,440	658,745	5	231,465
1859.....	4,631,540	334,272	..	.....
1860.....	4,631,540	505,976	..	.....
1861.....	4,689,340	733,819	5	232,715
1862.....	4,791,540	839,416	..	.....
1863.....	5,738,640	1,300,363	3½	203,108
1864.....	6,571,140	1,431,095	7	459,088
1865.....	8,376,510	2,078,039	10	782,444
1866.....	10,193,010	2,799,435	10	922,125
1867.....	10,399,010	2,801,244	10	1,019,300
1868.....	12,544,030	2,887,945	15	1,667,095
1869.....	13,825,025	3,144,187	10	1,254,390
1870.....	16,590,210	2,630,205	10	1,520,790
1871.....	16,590,510	2,779,011	10	1,659,045
1872.....	18,649,910	2,604,742	10	1,761,675
1872.....	18,652,910	2,315,944	5	932,645
1873.....	26,429,563	4,970,458	10	2,576,770
1874.....	26,639,013	5,131,805	10	2,661,089
1875.....	27,512,842	5,308,326	10	2,685,536
1876.....	27,598,242	5,243,094	10	2,749,065
1877.....	27,644,917	5,352,561	9	2,479,715
1878.....	27,956,817	6,085,893	8	2,212,827
1879.....	31,004,457	7,043,555	10	3,081,985
1880.....	54,413,197	10,484,547	9¼	4,366,064
1881.....	55,337,449	9,946,968	8	4,349,287
1882.....	69,649,697	10,118,070	8	5,023,599
1883.....	71,941,247	12,469,386	8	5,566,480
1884.....	76,450,147	11,253,362	8	5,566,580
1885.....	76,384,525	11,963,486	8	6,010,572
1886.....	76,386,525	12,083,510	8	6,110,722
1887.....	76,392,505	11,478,165	8	6,111,064
1888.....	76,393,505	4,906,708	5	3,819,030
1889.....	76,394,505	9,087,765	4	3,055,704
1890.....	76,394,505	8,976,268	5	3,819,630
1891.....	76,394,505	9,366,870	4¼	3,246,686
1892.....	76,408,500	10,533,383	5	3,819,923

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Exhibit "C."

Table showing date and rate per cent of dividends paid in cash by the Chicago, Burlington & Quincy Railroad.

DATE	PER CT.
1855	
Dec. 31,	5
1856	
June 30,	5
Dec. 31,	5
1857	
Aug. 1,	5
1860	
Nov. 15,	5
1862	
Nov. 15,	3½
1863	
May 15,	3½
May 15,	16½
Nov. 15,	3½
1864	
May 25,	4
Nov. 15,	6
1865	
May 15,	5
Nov. 15,	5
1866	
May 15,	5
Nov. 1,	5
1867	
May 15,	5
Sept. 15,	5
1868	
March 15,	5
Sept. 15,	5
1869	
March 15,	5
Aug. 15,	5
1870	
Feb. 15,	5
Aug. 15,	5
1871	
Feb. 15,	5
Aug. 15,	5
1872	
Feb. 15,	5
Sept. 16,	5
1873	
March 15,	5
Sept. 15,	5
1874	
March 15,	
Sept. 15,	5
1875	
March,	5
Sept.,	5
1876	
March,	5
Sept.,	5
1877	
March,	5
Sept.,	4
1878	
March 15,	4
Sept. 15,	4
1879	
March 15,	4
Sept. 15,	4
Dec. 15,	2
1880	
March 15,	2
May 3,	1¼
June 15,	2
Sept. 15,	2
Dec. 15,	2
1881	
March 15,	2
June 15,	2
Sept. 15,	2
Dec. 15,	2
1882	
March 15,	2
June 15,	2
Sept. 15,	2
Dec. 15,	2
1883	
March 15,	2
June 15,	2
Sept. 15,	2
Dec. 15,	2
1884	
March 15,	2
June 15,	2
Sept. 15,	2
Dec. 15,	2
1885	
March 15,	2
June 15,	2
Sept. 15,	2
Dec. 15,	2
1886	
March 15,	2
June 15,	2
Sept. 15,	2
Dec. 15,	2
1887	
March 15,	2
June 15,	2
Sept. 15,	2
Dec. 15,	2
1888	
March 15,	2
June 15,	2
Sept. 15,	1
Dec. 15,	1
1889	
March 15,	1
June 15,	1
Sept. 15,	1
Dec. 15,	1
1890	
March 15,	1¼
June 15,	1¼
Sept 15,	1¼
Dec. 15,	1¼
1891	
March 15,	1
June 15,	1
Sept. 15,	1
Dec. 15,	1¼
1892	
March 15,	1¼
June 15,	1¼
Sept. 15,	1¼
Dec. 15,	1¼

Exhibit "D."

Table showing comparison of rates in Iowa and Nebraska by class and cents per hundred pounds:

	In Cents Per 100 Lbs.				Car Load Lots, In Cents per 100 lbs.					
	1	2	3	4	5	A	B	C	D	E
5 Miles—										
Iowa	14	11.9	9.34	7	4.9	5	4.9	4.2	3.5	2.8
Nebraska	13	11	9	7	5	5	4	3	3	2
50 Miles—										
Iowa	20	17	13.34	10	7	7.05	7	6	5	4
Nebraska	24	19	14.5	12	10	10	8	7	5	3.5
100 Miles—										
Iowa	24	20.4	16	12	8.4	9	8.4	7.2	6	4.8
Nebraska	29	25	21	20	16	15	10	9	7	5.5
150 Miles—										
Iowa	32	25.3	19.5	15.3	11.3	12.5	10.7	9.2	7.7	6.4
Nebraska	41	36	32	24	22	23	14	13	9	6.5
200 Miles—										
Iowa	40	30.2	23	18.6	14.2	15.9	13	11.1	9.39	8
Nebraska	55	48	43	36	31	29	20	17	12	8
250 Miles—										
Iowa	48	35.1	26.5	21.8	17.1	19.2	15.25	13.05	10.99	9.5
Nebraska	58.5	53	47	41	35	30.5	22.5	18.5	13.5	10
300 Miles—										
Iowa	56	40	30	25	20	22.5	17.5	15	12.5	11
Nebraska	62	57	52	46	39	32	26	20	15	12
350 Miles—										
Iowa	58.5	42.5	32.5	27.5	22.5	25	20	17.5	15	13.5
Nebraska	69	62	57.5	51	40	35	29	23	17.5	13.5
400 Miles—										
Iowa	61	45	35	30	25	27.5	22.5	20	17.5	16
Nebraska	75	66	62	56	42	40	34	27	20	16
500 Miles—										
Iowa	76	50	40	35	30	32.5	27.5	24	22.5	21
Nebraska	96	86	72	66	52	50	39	32	25	19

Exhibit "D"—Continued.

	Car Load Lots, In Cents per 100 Lbs.								Coal in Cents Per Ton.		
	Wheat, Flour, etc.	Other Grain & Mill Stuff	Lumber.	Salt, Lime, Cement.	Horses & Mules.	Fat Cattle.	Hogs.	Sheep.	Hard.	Soft, Nut and Lump.	Soft, Pea and Slack
5 Miles—											
Iowa.....	4.5	3.75	3.5	3.25	5.37	5.13	5.67	84	.60	.30	.25
Nebraska	4	4	4	3	10.75	9.75	8.50	8.40	.60	.30	.25
50 Miles—											
Iowa	6.3	5.25	4.9	4.51	8.15	8.68	8.67	12	.96	.66	.52
Nebraska	7	7	7	5.5	17.50	16.50	13	12	.96	.66	.52
100 Miles—											
Iowa	8.1	6.75	6.3	5.85	12.5	11.32	10.96	16	1.36	1.00	.70
Nebraska	10.5	9	6	9	25	21.50	18.00	16	1.36	1.00	.74
150 Miles—											
Iowa	9.5	7.9	7.4	6.85	15	13.42	12.8	19	1.70	1.15	.89
Nebraska	13	11	9	9	30	25.50	21	19	1.70	1.15	.89
200 Miles—											
Iowa	10 8	9	8.4	7.8	17.5	15.53	14.8	22	2.00	1.30	1.04
Nebraska	14	13	11	13	35.00	29.60	24.00	22.	2.00	1.30	1.04
250 Miles—											
Iowa	12.15	10.15	9.45	8.8	19.37	17.89	16.9	23.9	2.20	1.40	1.14
Nebraska	14.5	13.5	14.5	15.5	38.75	34.00	28.00	23.9	2.20	1.40	1.14
300 Miles—											
Iowa	13.53	11.25	10.5	9.75	21.25	20.26	19	25.9	2.40	1.50	1.24
Nebraska	16	14	17	18	42.50	38.50	32.00	25.9	2.40	1.50	1.24
350 Miles—											
Iowa	14.88	12.4	11.55	10.75	23	21.58	19.62	28.3	2.60	1.60	1.29
Nebraska	17	15	19.5	20.5	46.	41.	34.50	28.30	2.60	1.60	1.28
400 Miles—											
Iowa	16.2	13.5	12.6	11.7	24.75	22.88	21	30.3	2.80	1.70	1.34
Nebraska	18	16	22	23	49.50	43.50	37	30.31	2.80	1.70	1.34
500 Miles—											
Iowa :...	18.87	15.70	14.70	13.60	28.15	25.49	22.25	34.3	3.20	1.90	1.44
Nebraska	22	20	27	35	56.50	41.50	45.00	34.70	3.20	1.90	1.44

IN THE CIRCUIT COURT OF THE UNITED STATES, DISTRICT OF NEBRASKA.

THE ANSWER OF THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY TO THE BILL OF COMPLAINT OF HENRY L. HIGGINSON ET AL., COMPLAINANTS.

This respondent now and at all times hereafter saving and reserving to itself all manner of benefit and advantage of exception to the many errors and insufficiencies in the said complainants' bill of complaint contained, for answer thereunto or to so much, or such parts thereof as this respondent is advised is material for it to make answer unto, it answers and saith:

1. This respondent admits that the allegations contained in the several paragraphs of the complainants' bill of complaint, except paragraph XVII, are true, and as to the matters and things charged in said paragraph XVII, it saith:

It is true that the complainants addressed to Charles E. Perkins, president of this respondent, the letter referred to in said paragraph XVII, and that it was afterwards presented by said Charles E. Perkins to the board of directors of this respondent, and considered by it, and the request contained in it refused, all as stated in said paragraph XVII; this respondent denies, however, that in refusing said request the said board of directors was derelict in duty, but on the contrary, alleges that under the circumstances and conditions then existing it was its duty to refuse said request, for had it not done so, and refused to adopt and

enforce upon its lines of railroad the rates prescribed by the statute mentioned in the bill of complaint, the respondent would have been subject to innumerable suits and prosecutions for enormous damages and penalties under the statute aforesaid, which if maintained in the courts would have swept away its entire property in the state, and otherwise subject it to immeasurable injury.

2. This respondent denies all unlawful combination and confederacy in the said bill charged, without that any other matter or thing material or necessary for it to make answer unto, and not hereinbefore or hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true in the knowledge or belief of this respondent.

All which matters and things it is ready to maintain and prove as this Honorable Court shall direct, and humbly prays to be hence dismissed with its costs and charges in that behalf most wrongfully sustained.

T. M. MARQUETTE,

C. J. GREENE,

Solicitors and of Counsel for Respondent, C., B. & Q. R. R.

IN THE UNITED STATES CIRCUIT COURT, DISTRICT OF NEBRASKA.

The replication of Henry L. Higginson, Robert H. Gardner, Samuel Johnson, William G. Weld, George A. Gardner, W. A. Dexter, Charles U. Cutting, F. Gordon Dexter, W. Powell, Mason E. Pierson Beebe, S. E. Peabody and Henry Stockton, all of the city of Boston in the State of Massachusetts, suing not only on their own behalf but on behalf of all others similarly situated, plaintiffs to the answer of George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioners of Public Lands and Buildings, defendants.

These repliants saving and reserving to themselves now and at all times hereafter, all and all manner of benefit and advantage of exception, which may be had or taken, to the manifold insufficiencies of the said answer for replication, thereunto say, that they will aver, maintain and prove their bill of complaint to be true, certain and sufficient in the law, to be answered unto, and that the said answer of the said defendants is uncertain, untrue and insufficient, to be replied unto by these repliants, without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, and not herein or hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things these repliants are and will be ready to aver, maintain and prove, as this Honorable Court shall direct, and humbly pray, as in and by their said bill they have already prayed.

J. M. WOOLWORTH,

Solicitor for Complainant.

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)1 Thereupon afterwards, at the November Term of said Court on the 23rd day of November, 1894, the following proceedings re had and done in said case as appears of record on folio 225 Jour- "T" of said court, to-wit:—

nry L. Higginson, Robert H. Gardner, Samuel Johnson, William G. Weld, George A. Gardner, W. S. Dexter, Charles U. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stockton, suing as well on behalf of themselves, as all others similarly situated.

62 "Q." vs.

e Chicago, Burlington & Quincy Railroad Company, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph F. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of said Board.

This cause came on to be heard upon the pleading, proofs and exhib- filed therein, at the May Term of this court before the Honorable avid J. Brewer, one of the Justices of the Supreme Court of the nited States, assigned to the Eighth Judicial Circuit and Elmer S. undy, United States District Judge for the District of Nebraska, and as argued by counsel.

And thereupon said Judges took the matter to be considered by them id on the —— day of November, instant, the opinion of his Honor Ir. Justice Brewer was filed in the Clerk's office. And thereupon, it is ordered, adjudged and decreed as follows:

102 That the said Railroad Company be perpetually enjoined and restrained from making or publishing a schedule of rates to be harged by it for the transportation of freight on and over its road in his State from one point to another therein, whereby such rates shall be educed to those prescribed by the Act of the Legislature of this State, o called in the bill filed therein, "House Roll 33," and entitled "An Act o regulate railroads, to classify freights, to fix reasonable maximum ates to be charged for the transportation of freight upon each of the ailroads in the State of Nebraska, and to provide penalties for the vio- ation of this Act," approved April 12, 1893, and below those now harged by said Company, or in any wise observing or conforming to the rovisions, commands, injunctions and prohibitions of said alleged act; nd that the Board of Transportation of said State and the members and ecretaries of said Board, be in like manner perpetually enjoined and restrained from the entertaining, hearing or determining any complaint o it against said Railroad Company, for or on account of any act or thing by it, its officers, agents, servants or employees, done, suffered or omitted which may be forbidden or commanded by said alleged act, and from nstituting or prosecuting or causing to be instituted or prosecuted, any action or proceeding, civil or criminal against said company for ny act or thing, done, suffered or omitted, which may be forbidden

or commanded by said act and particularly from reducing its present rates of charges for transportation of freight to those prescribed by said act and that the Attorney General of this State be in like manner enjoined from bringing, aiding in bringing or causing to be brought, any proceeding by way of injunction, mandamus, civil action or indictment against said company for or on account of any action or omission on its part commanded or forbidden by said act. And that a writ
2103 of injunction issue out of this court and under the seal thereof directed to the said defendants commanding, enjoining and restraining them as hereinbefore set forth, which injunction shall be perpetual save as is hereinafter provided.

And it is hereby declared, adjudged and decreed that the act above entitled is repugnant to the Constitution of the United States, for as much as by the provisions of said act, the said defendant railroad company may not exact for the transportation of freight from one point to another, within this State, charges which yield to the said company reasonable compensation for such services.

It is further ordered, adjudged and decreed that the defendants members of the Board of Transportation of said State may hereafter when the circumstances have changed so that the rates fixed in the said act shall yield to the said company reasonable compensation for the services aforesaid, apply to this court by supplemental bill or otherwise as they may be advised, for a further order in that behalf.

It is further ordered, adjudged and decreed that the plaintiffs, recover of the said defendants, their costs to be taxed by the Clerk.

O. K. as to form.

JNO. L. WEBSTER.

The foregoing decree is in accordance with the opinion of Justice Brewer now on file.

23 Nov. 1894. (Signed) ELMER S. DUNDY, Judge.

2104 Thereupon afterwards, to-wit: On the 2d day of January, 1895, A Petition praying an Appeal was filed in said case, which said Petition praying an appeal is in the words and figures following, to-wit:

In the Circuit Court of the United States Within and for the District of Nebraska.

Henry L. Higginson, Robert H. Gardner, William C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, R. Pierson Beebe, S. E. Peabody and Henry Stocton, Complainants,

62 "Q." vs.

The Chicago, Burlington & Quincy Railroad Company, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands

and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Defendants.

PETITION PRAYING AN APPEAL.

Now come George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, defendants in the above entitled cause, and complaining of the plaintiffs say:

2105 That on the 23rd day of November, 1894, said plaintiffs recovered a judgment and decree against these defendants herein in said cause and in said Court, in which among other things it was decreed that these defendants be enjoined and restrained from entertaining, hearing or determining any complaint against said defendant railway company, or on account of any act or thing by said company, its officers, agents, servants, or employees done, suffered, or omitted which may be forbidden or commanded by an Act of the Legislature of the State of Nebraska, entitled "An Act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this "Act Approved April 12th, 1893.

And in which said decree these defendants were further enjoined from instituting or prosecuting, or from causing to be instituted or prosecuted, any action or proceeding, civil or criminal against said railway company for any act or thing done, suffered or omitted which may be fordidden or commanded by the said Act, and particularly from reducing its present rates of charges for transportation of freight to the rates prescribed in said Act.

And in which said judgment and decree the Attorney General of the State of Nebraska was further enjoined from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action or indictment against the said railway company for or on account of any action or omission on their part commanded or forbidden by the said Act.

And in which said judgment and decree it was adjudged and decreed that the said Act above mentioned is repugnant to the constitution
2106 of the United States, in that the said railway company may not under its provisions exact rates for the transportation of freight which yield to the Company reasonable compensation for such service.

And these defendants allege that they were prejudiced by the various orders, judgments and decrees, and that there is error in the proceedings of the court by which said judgment and decree was obtained and that the said judgment and decree is erroneous in matters and things more

particularly shown by the assignments of errors filed herewith, and by the record in said cause.

And by reason of said errors the said defendants pray that they may be allowed an appeal from said judgment and decree of said Court in said cause to the United States Circuit Court of Appeals of the Eighth Circuit, and that a transcript of the record and proceedings duly authenticated may be sent to said Court of Appeals, whereby said judgment and decree may be reversed and whereby these defendants may be given such other and further relief as may be just and proper.

George H. Hastings, Attorney General, John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer and A. R. Humphrey Commissioner of Public Lands and Buildings constituting the Board of Transportation, of the State of Nebraska and William A. Dilworth J. M. Kountz and J. W. Johnson Secretaries of the Board of Bransportation of the State of Nebraska.

GEO. H. HASTINGS,
W. A. DILWORTH,
JNO. L. WEBSTER,
Their Solicitors.

Appeal allowed as prayed January 2, 1895.

ELMER S. DUNDY, Judge.

Upon the back of said Petition praying an Appeal appear endorsements in the words and figures following, to-wit:

Docket "Q" No. 62 U. S. Circuit Court District of Nebraska. Henry L. Higginson et al., plaintiffs, vs. The Chicago, Burling-
2107 ton and Quincy R. R. Co. et al., Defendants. Petition praying an Appeal. Filed Jan. 2, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Sol. for defendants.

Thereupon afterwards, to-wit: On the said 2d day of January, 1895, Assignment of Errors was filed in said Court, which said Assignment of Errors is in the words and figures following, to-wit:

In the Circuit Court of the United States, Within and for the District of Nebraska.

Henry L. Higginson, Robert H. Gardner, W. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, R. Pierson Beebe, S. E. Peabody, and Henry Stocton, Complainants,

62 "Q" vs.

The Chicago, Burlington & Quincy Railroad Company, George H. Hastings, Attorney General, John C. Allen, Secretaay of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildidgs, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Defendants.

ASSIGNMENT OF ERRORS.

Now come George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraka, defendants in the above entitled cause, and say there is manifest error in the record of the proceedings and decree in the above en-
2108 titled cause in this, to-wit:

1.—Said Court erred in that part of the decree wherein it ordered and decreed that said railway companies be perpetually enjoined and restrained from making or publishing a schedule of rates to be charged by it for the transportation of freight on and over its respective roads in this State from one point to another therein, whereby such rates shall be reduced to those prescribed by the Act of the Legislature of the State of Nebraska entitled "An Act to regulate Railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act. Approved April 12, 1893.

2.—That the said Court erred in that part of the decree wherein it ordered and decreed that the defendant railway company be enjoined and restrained from reducing the rates below those now charged by said company; or from in any wise obeying, observing or conforming to the provisions, commands, injunctions, and prohibitions of said Act of the Legislature of Nebraska.

3.—That the said Court erred in that part of its judgment and decree wherein it decreed that the Board of Transportation of the State of Nebraska, its members and secretaries, be perpetually enjoined and restrained from entertaining, hearing or determining any complaint made to it against said railway company for or on account of any act or thing done, suffered or omitted by said company, its officers, Agents, or servants, which may be forbidden or commanded by said Act of the Legislature of the State of Nebraska.

4.—That said Court erred in that part of its judgment and decree wherein it adjudged and decreed that the Board of Transportation for the State of Nebraska be perpetually enjoined and restrained from instituting or prosecuting or causing to be instituted or prosecuted, any
2109 action or proceeding against said company for anything by it done, suffered or omitted or which may be forbidden or commanded by the said Act of the Legislature of the State of Nebraska.

5.—For that the said Court erred in said judgment and decree wherein it ordered and decreed that the Board of Transportation be perpetually enjoined and restrained from reducing the present rates of charges for transportation of freight by the defendant railway company to those rates prescribed in said Act of the Legislature of the State of Nebraska.

6.—That the said Court in its judgment and decree erred in that part thereof wherein it adjudged and decreed that the Attorney General of

the State of Nebraska, be in like manner perpetually enjoined and restrained from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action or indictment against said Railway Company for or on account of any action or omission on their part commanded or forbidden by the said Act.

7.—That the said Court erred in that part of its judgment and decree wherein it is adjudged and decreed that the said Act of the Legislature of Nebraska is repugnant to the Constitution of the United States.

8.—That the Court erred in its judgment and decree in that part thereof wherein it is adjudged and decreed that the said Act of the Legislature of the State of Nebraska forbade the railway Companies from exacting for the transportation of freight from one point to another within the State, charges which would yield to the Companies reasonable compensation for such services.

George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M.
2110 Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska.

By JNO. L. WEBSTER,
Their Solicitor.

Upon the back of said Assignment of Errors appear endorsements in the words and figures following, to-wit:

Docket "Q." No. 62. U. S. Circuit Court, District of Nebraska. Henry L. Higginson, et al., Plaintiff, The Chicago, Burlington & Quincy R. R. Co. et al., Defendants. Assignment of Errors. Filed Jan. 2, 1895, Elmer D. Frank, Clerk. Jno. L. Webster, Sol. for Defendants.

The United States of America, To Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles
2111 A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, and The Chicago, Burlington & Quincy Railroad Company, Greeting:—

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this Citation bears date, pursuant to an appeal allowed and filed in the Clerk's office of the Circuit Court of the United States for the District of Nebraska, wherein George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, are appellants and you are appellees, to show cause, if any there be, why the

Decree rendered against the said Appellants, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Elmer S. Dundy, Judge of the Circuit Court of the United States for the District of Nebraska, this 10 day of January, in the year of our Lord one thousand eight hundred and ninety-five.

Seal of the United States Circuit Court, District of Nebraska.

ELMER S. DUNDY,
United States District Judge for the District of Nebraska.

Docket Q. No. 62. U. S. Circuit Court, District of Nebraska. Henry L. Higginson et al., Plaintiff, vs. Chicago, Burlington & Quincy R. R. Co., Defendant. Citation. Service admitted Jany. 11, 1895. I. M. Woolworth Sol. for Pltf. C. J. Greene Sol. for Ry. Co. Jno. L. Webster Attorney for Appellants. Filed Jan. 15, 1895. Elmer D. Frank, Clerk.

2112 Thereupon afterwards, to-wit: On the 19th day of January, 1895, a Cost Bond was filed in said case, which said Cost Bond is in the words and figures following, to-wit:

Know All Men By These Presents:

That we, George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, as principles, and Edward Rosewater and Geo. B. Tzschuck as sureties are held and firmly bound unto Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, and the Chicago, Burlington & Quincy Railroad Company, in the full and just sum of Five Hundred to be paid to the said Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, and the Chicago, Burlington & Quincy Railroad Company, their heirs, executors, administrators, or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally by these presents.

Sealed with our Seals, and dated this 19th day of January, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas, lately at the November Term A. D. 1894, of the Circuit Court of the United States for the District of Nebraska, in a suit depending in said Court between Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody,

and Henry Stocton, complainants, and the Chicago, Burlington
2113 & Quincy Railroad Company, Geo. H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, respondents, decree was rendered against the said respondents, and the said George H. Hastings, Attorney General, John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting said Board of Transportation of the State of Nebraska; William Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, have obtained an allowance of an appeal from the said Court to reverse the said decree in the aforesaid suit, and a citizen directed to the said appellees citing and admonishing them to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the date of said Citation.

Now the condition of the above obligation is such, that [of] the said George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, shall prosecute said appeal to effect, and answer all damages and costs if they fail to make good their plea, then the above obligation to be void, else to remain in full force and virtue.

2114 George H. Hastings, Attorney General, John C. Allen, Secretary of State, Eugene Moore, Auditor of Public Accounts, Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board. [Seal.]

By JNO. L. WEBSTER,
Their Solicitor.

EDWARD ROSEWATER, [Seal.]
GEO. B. TZSCHUCK, [Seal.]

Approved by ELMER S. DUNDY, Judge.

Upon the back of said Bond appear endorsements, in the words and figures following, to-wit: Docket "Q" U. S. Circuit Court District of Nebraska. Higginson, et al., plaintiffs, vs. Chicago Burlington & Quincy R. R. Co., Defts. Cost Bond. Filed Jan. 19, 1895. Elmer D. Frank, Clerk. Jno. L. Webster, Attorney for Appellants.

* * * * * * * * *

2115 Filed Jan. 24, 1895.

JOHN D. JORDAN, Clerk.

In the Circuit Court of the United States,

DISTRICT FOR NEBRASKA.

OLIVER AMES ET AL.,
vs.
UNION PACIFIC RAILWAY COMPANY ET AL.

GEORGE SMITH ET AL.,
vs.
CHICAGO & NORTH-WESTERN RAILROAD COMPANY ET AL.

HENRY L. HIGGINSON ET AL.,
vs.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY ET AL.

THE NEBRASKA MAXIMUM FREIGHT RATE CASES.

COPY OF THE EVIDENCE

Printed by the State Board of Transportation.

OMAHA, NEB., Oct. 24, 1893.

Present:

J. M. WOOLWORTH,

Solicitor for Plaintiffs.

GEO. H. HASTINGS,

W. A. DILLWORTH,

Solicitors for Defendants, Members of the Board of Transportation.

G. LEE SHUMWAY,

being first duly sworn, testified in behalf of complainants as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Please state your name, age, occupation and place of residence?

A. G. Lee Shumway; my age is 28 years; my post-office is Ashford, Banner county, this state; my occupation at present is school teacher.

Q. Did you attend the sessions of the last legislature of this state?

A. Yes, sir.

Q. For how long?

A. I was there from the beginning until the end of the session.

Q. Had you any employment in connection with the legislature?

A. Yes, sir.

Q. What was it?

A. I was chief engrossing clerk of the house.

Q. How long did you continue in that service?

A. As long as the legislature was in session.

Q. Mr. Shumway, in looking over the original Newberry bill, so-called, or House Roll 33, I discover that it does not contain—that it did not contain an explanation of the hieroglyphics, "L. C. L.", do you remember that fact?

A. I believe I do.

Q. It appears that the letters "L. C. L., for less than car loads," now appear upon the bill; can you tell how that came there?

A. I believe so.

Q. How did they come there; can you tell when they were first placed there?

A. They were placed—

Q. In which bill, speaking of the original bill?

A. They were placed there when the bill was in the engrossing room, by orders.

Q. By orders—orders of whom?

A. Of Mr. Rhodes.

Q. Who was Mr. Rhodes?

A. He was chairman of the engrossing committee.

Q. Did any other persons join in the directions to insert the words?

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A. Yes, sir.

Q. Who?

A. Mr. Gaffin.

Q. Who was he?

A. Speaker of the house, and Mr. Newberry.

Q. Who was Mr. Newberry?

A. The introducer of the Newberry bill.

Q. Member of the house?

A. Yes, sir.

Q. And introduced the original bill, did he?

A. Yes, sir.

Q. On that account it is called the Newberry bill?

A. Yes, sir.

Q. Was Mr. Rhodes a member of the engrossing committee?

A. He was chairman of the engrossing committee.

Q. What is his first name?

A. His initials are H. F.

Q. What district did he represent; do you know?

A. I could not tell you.

Q. Who did Mr. Rhodes give the directions to?

A. He gave them to the clerk of his committee, and to myself, and to Mr. Parsons, who was chief enrolling clerk.

Q. What committee was his committee?

A. The committee on engrossed and enrolled bills.

Q. He was chairman of that committee, was he?

A. Yes, sir.

Q. Who was his clerk?

A. Knott, was the last name; I do not remember his initials.

Q. What connection did you have with the committee?

A. I was chief engrossing clerk.

Q. Who was the enrolling clerk?

A. J. A. Parsons.

Q. Who did you say he gave the directions to?

A. To us three; we were together.

Q. What were the directions he gave?

A. The directions were to correct the clerical errors of the bill.

Q. Did he give any particular direction with reference to this particular clause I have read, "L. C. L., for less than carload"?

A. Why, I believe that was mentioned; he instructed us to correct all the errors.

Q. That was not in the bill before it came into your committee, was it?

A. No, sir.

Q. Then, what correction was it that was made that he directed to be made?

A. He directed it to be inserted.

Q. Do you know who inserted it?

A. I do, sir.

Q. Did you see it done?

A. I did it myself.

Q. What authority had you to insert it?

A. The authority of the chairman of the committee under which I was working, and the speaker of the house and introducer of the bill.

Q. I wish to know if that insertion was by interlineation or was it in the body of the paper?

A. It was interlined, I believe; think I used the hyphen and wrote the explanation above the line.

Q. That interlineation was made under the heading: "The Nebraska Classification, Explanation of Characters," was it not?

A. Yes, sir.

Q. I would like you to tell me whether the bill came to your house for engrossment after it had been read the second time in the house?

A. It was supposed to have been read.

Q. It came to your committee in the usual order of business?

A. Yes, sir.

Q. Upon the order of the house that the bill be engrossed for the third reading?

A. Yes, sir.

Q. Do you know whether or not there had been any action of the house on that subject before that time, upon this clause I have read?

Objected to by Mr. Hastings, as the record is the best evidence.

A. I do not know.

Q. Was there anything upon the bill in the form of a

slip fastened to the bill, or any writing whatever, presented with the bill to you as the chief clerk of the committee, showing the action of the house upon those words?

A. I don't believe there was any slips.

Q. Can you state with any confidence on that subject?

A. Yes, I can; I am pretty positive.

Q. You had before you no writing in any form then, whatever, from which you made that entry or interlineation?

A. Mr. Newberry stated that he intended to follow the Iowa bill, and I had a copy of that bill there, and it was that being in the Iowa bill which led to its being placed in this bill.

Q. Then you copied that clause from the Iowa bill as contained in the Iowa statute?

A. Yes, sir, at least supposed to be that.

Q. On the strength of Mr. Newberry's stating that he intended to insert it because it was in the Iowa bill, is that the cause?

A. Yes, sir.

Q. But upon the bill as it came to you for engrossment there was no writing nor anything attached to it to indicate that those words had had the action of the house?

A. No, sir.

Q. You simply acted then on the direction of the three gentlemen you have named, the verbal directions of the three gentlemen you have named?

A. Yes, sir.

Q. I will call your attention to another matter; the riginal bill does not contain the following clause which I ill read after the explanation of characters. The clause ins as follows: "The figures or letter in the first column the right of the various articles in the classification, refer less than carload lots, and those in the second column efer to the rate in carload lots." Do you remember that lause in the copies of the bill subsequent to the original ill; that is, do you remember them as having been in the ill as finally engrossed by your committee?

A. Yes, sir.

Q. And that bill was engrossed under your personal bservation and direction, was it not?

A. Yes, sir.

Q. Was that clause in the original bill first introduced into the house by Mr. Newberry?

A. That was not in the bill that came into the engrossing room; came into our hands.

Q. You mean it was not in the bill that came to your hands for engrossment in the ordinary, usual course of legislative proceedings?

A. Yes, sir.

Q. How did it get into the engrossed bill?

A. It was ordered placed there.

Q. Who ordered it?

A. The same gentlemen that ordered the other alteration.

Q. Did they know it was put in there?

A. I presume so; they ordered it so.

Q. And they saw the bill afterwards, did they not?

A. Yes, sir, I know they did.

Q. And each one of the three knew it had been put into the bill when it was in the committee on engrossed bills, did not they?

A. I would not say positively about that; I think they did, though.

Q. Then that clause had not received the action of the house before the original bill came to you for engrossment, had it?

A. I believe not; not to my knowledge, at any rate.

Q. Who put it on there?

A. I could not tell you, sir.

Q. That was not written by you, was it?

A. No, sir.

Q. While the bill was in your committee, was it otherwise changed? I mean, was it changed in other particulars?

A. I believe there was some minor changes made in it —my recollection is—

Q. Are you able, at this time, to state what those changes were?

A. I am not.

Q. When you say they were minor changes, you do not mean to say that they were not important and radical changes in the character of the bill, do you?

By Mr. Hastings:

I think it might be a matter of the opinion of the witness, and he might not be an expert in that particular line; as long as he knows what the changes were it is for the Court to determine whether they were radical or minor.

By Mr. Woolworth:

Q. Can you remember what the changes were now, Mr. Shumway?

A. I cannot tell you what they were, but I can tell you that they were in the classification.

Q. How many of them were there?

A. Probably fifteen or twenty, perhaps; I do not remember; might have been a few less and perhaps a few more.

Q. By whose direction were those changes made?

A. They were included in the order to follow the Iowa rate, the Iowa classification.

Q. And was the Iowa law before you when you made the changes?

A. The printed bill, which I presume was.

Q. It was given to you by Mr. Newberry or by one of these gentlemen as being the law, was it?

A. Yes, sir.

Q. I wish to go to a later date in the history of this legislation; do you remember, Mr. Shumway, when the bill came to be enrolled for the signature of the governor, did it go back into the room of the committee on enrolled and engrossed bills?

A. Yes; in the channel it came before; it came to us through the committee.

Q. And state whether there was upon it an amendment made by the senate to the bill?

Objected to by Mr. Hastings, for the reason that the record is the best evidence.

A. Yes, there was one, anyway; I do not know but more.

Q. I call your attention particularly to the heading of the columns of figures under "Carload Classes in cents per hundred pounds", do you remember how many items of mileage was covered by that amendment?

A. Do you mean to what distances?

Q. Yes, sir. Beginning at five miles, how far down?

A. About eighty-five miles, I think, was the last.

Q. Now, Mr. Shumway, I want you to state whether the amendment which came from the senate, covering that matter, had over these columns, or some of them, a word or words, to which the rate was to be applied?

A. Yes, sir.

By Mr. Hastings:

The record itself is the best evidence.

By Mr. Woolworth:

I will state that I shall make the best proof I can, the truth being the words were there as the amendment passed the senate, and as the amendment came into the enrolling committee, but were by some person or persons stricken out, and in what form I shall be able to make that proof out of the record of the secretary of state's office I cannot now say, but I promise to make it in some form.

To the statement of the counsel, the defendants objected for the reason already stated, and that the plaintiffs or complainants are equally bound with the defendants by the record made.

Q. Now, sir, will you state what is the heading of the first column?

A. I think it was "wheat flour".

Q. Do you remember whether it was "wheat, flour," being two articles, or was it "wheat flour," naming one article?

A. There was no comma between them, which would indicate it was only one article.

Q. Can you tell what was the heading of the second column?

A. No, sir.

Q. I hand you a memoranda for your examination, and recall to you the recent examination made by you of the record in the secretary's office, and ask you, being refreshed in that way, to state, if you can, what the heading of the second column was?

A. My recollection is that there were only two articles named, or articles at the head of two columns, but on this record I see four articles named, therefore, I cannot be definite as to what those other articles were.

Q. You mean you cannot be definite, speaking from your personal recollection?

A. I cannot.

Q. You found, didn't you, on your recent examination

of the record that there were headings for the four columns, didn't you?

A. Yes, sir.

Q. And that those had been stricken off?

A. Yes, sir.

Q. What was the heading of the second column?

A. Corn.

Q. What was the heading of the third column?

A. Lumber.

Q. What was the heading of the fourth column?

A. Salt.

Q. Then I understand, according to the amendment as it came down from the senate to the house, those rates were fixed for those four different classes of articles; am I right in that?

A. That is what would appear.

Q. Mr. Shumway, did you hear any discussion among the friends of this bill in the house with reference to the amendment which the senate had made?

A. Yes, sir.

Q. That is to say the amendment which the senate had made by which it made these four articles the articles to which these rates were to apply instead of those named on the original bill?

A. I heard some such discussion.

Q. Where did you first hear the discussion?

A. Mr. Porter called the attention of the house to that—I was in the gallery.

Q. It was on the floor of the house, in open session, was it not?

A. Yes, I believe so.

Q. And what did he say, if you can state?

Objected to by Mr. Hastings as incompetent and immaterial.

A. I do not think I can repeat what he said more than he was calling the attention of the house to that fact, before the house had concurred in the amendment, the fact that only these few articles were contained in the amendment.

Q. Did any others participate in the discussion?

Objected to by Mr. Hastings as incompetent and immaterial.

A. He was the only one I heard speak on the subject for I was in the gallery but a limited time.

Q. Did you hear it discussed afterwards?

A. In the house, do you mean?

Q. No, anywhere, I simply ask you the general question, did you hear it discussed afterwards by friends of the bill?

A. Yes, sir.

Q. Where?

Objected to by Mr. Hastings as incompetent and immaterial.

A. It was in the engrossing committee's room.

Q. Who was present?

A. Mr. Gaffin, Mr. Newberry, Mr. Rhodes and Mr. Porter.

Q. State whether or not that was in the large a public room, or was it in a private place, when the conve sation first began?

A. I could not say when it first began, but the parti I had heard talking were in the small room which was t entry of the engrossing room.

Q. Were any other persons present but those you ha named, including yourself?

A. I am not sure.

Q. Who spoke first on that subject?

A. Mr. Gaffin spoke to me about.

Q. What did he say?

By Mr. Hastings:

All of this matter pertaining to the discussion of th bill that took place in the committee room is produced he over the objection of the defendants in this matter.

A. He asked me if my clerks would be disposed to te things that occurred.

Q. What did you answer to that?

A. I told him that I could not vouch for their keepin their peace if anything crooked was done, but I certain knew some of them would lose their faith in humanity there was anything of the kind occurred.

Q. Was that before or after you went into the sma room?

A. Before we went into the small room.

Q. Then you may state what was said next.

A. Mr. Gaffin requested that I would put all the clerks out of the small room for a time.

Q. Did you do so?

A. Yes, sir.

Q. Did you close the door?

A. Yes, sir.

Q. Who remained in the room?

A. The four gentleman named and myself, and I do not remember that there were any others there.

Q. What position did you occupy in the room?

A. I sat by the door so that none of the clerks would come in.

Q. Did you do that by the direction of anybody?

A. No further than I have stated.

Q. When you got into the room there and had the door closed and guarded, what was said first?

A. I don't remember the first that was said.

Q. Give us an account, if you can, as fully and particularly as you can remember it, of what was said and done there by each of the persons present.

A. Whether it referred to the bill or not?

Q. Yes, the whole thing from beginning to end.

A. Well, Mr. Rhodes said, I believe, that he was uncertain as to the intention of this amendment, and wished to have their opinions upon the subject.

Q. Did he desire their opinions for the purpose of directing the clerks of the committee in enrolling the bill?

A. Yes, sir.

Q. Well, what answer was made to that?

A. Well, Mr. Gaffin said that he was of the opinion that the senate amendment was not intended to strike out any of the articles mentioned in the original bill.

Q. Well, what answer was made to that?

A. No direct answer, more than Mr. Porter believed that it was intended to strike out the articles; as he expressed it, it was "a senate trick to defeat the main object of the bill".

Q. To strike out all of the articles which were named in the bill as it went from your hands to the senate and insert in lieu thereof words which you have already given us?

A. Yes, sir.

Q. What was said to that?

A. They talked for some time. During the conversation Mr. Porter said that if the bill went into effect with those articles eliminated, or words to this effect, that the relief to the farmer would not be forthcoming, and stated that it would be hard to explain that the bill was not a piece of campaign thunder.

Q. Well, what was said to that? I will put this categorical question: State whether or not Mr. Rhodes approved of that suggestion?

A. No; Mr. Rhodes said he was not there to make campaign thunder.

Q. What did Mr. Newberry say to it?

A. Mr. Newberry had very little to say. I do not remember anything he said.

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Q. Did he dissent at all from the expressions of the other gentlemen?

A. Not to my recollection.

Q. What did the speaker have to say about it?

A. I have stated in substance all that I recollect of what was said.

Q. I want to call your attention to the fact, if it be a fact, that it was said that the people believed the railroads owned the court?

A. I am not sure but some such an expression was used.

Q. Are you not sure it was used?

A. I believe so; yes, sir.

Q. And was not it also stated there at that time, Mr. Shumway, by some of those gentlemen, that if the court held the object of the law was defeated by the senate amendment that they could lay it on to the railroads?

Objected to by the defendants as immaterial, incompetent and leading.

A. I would like to ask if that question is pertinent to the subject.

Q. State whether or not any of the gentlemen there said anything about the bill going into force without objection from the railroads, and if so, what?

A. Yes, sir.

Q. What was said?

A. If those articles were inserted in the bill and it went into effect without objection from the railroads; if it went into effect the farmer would experience some relief.

Q. State whether or not at that time anything was said as to the action of the court if the railroads objected?

A. I believe so.

Q. What was said?

A. Well, it was said that if the railroads objected, and the bill was taken to the Supreme Court, and the courts threw the bill out on account of words being placed in there, that it would be an easy matter to claim their action as a confirmation of the statements that had been made before, that the court was owned by the corporations.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. What did you tell me your name was?

A. G. Lee Shumway.

Q. What is your postoffice address?

A. Ashford, Banner county, Nebraska.

Q. How long have you lived in Ashford?

A. I have lived in the county near there for about seven years.

Q. Where did you live at the beginning of January, eighteen ninety-three?

A. That was my home.

Q. And after the session of the legislature closed you returned to that place?

A. Yes, sir.

Q. During the session of the legislature you were chief enrolling or engrossing clerk?

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A. Engrossing.

Q. You had charge of that department?

A. Yes, sir.

Q. At the beginning of your duties as such clerk, did you take an oath of office?

A. Yes, sir.

Q. And entered upon the discharge of your duties under that oath?

A. Yes, sir.

Q. And undertook to discharge the duties of that office impartially and well?

A. Yes, sir.

Q. Nothing happened or occurred in the discharge of your duty then, that led you to believe that you did otherwise than to fulfill that oath you took?

A. There were things which were done which I doubted my right to do, but I did them by orders of those in authority over me.

Q. Do you mean to say here and swear that you would violate your oath of office because some man told you to do it?

A. No, sir.

Q. Did you do that?

A. Not to my recollection.

Q. Not to your knowledge?

A. Not to my knowledge.

Q. Now, when this matter, this "L. C. L." was

added, you added that you say by the direction of the speaker, Mr. Gaffin, Mr. Rhodes and Mr. Newberry?

A. Yes, sir.

Q. They were all three present at that time?

A. They were all present and said—

Q. Who said it, all three, or one of them say it and the balance assent to it?

A. One of them said it and the balance assented.

Q. By Speaker Gaffin, you mean speaker of the last House of Representatives?

A. Yes, sir.

Q. And by Mr. Rhodes, you mean Mr. Rhodes of the house?

A. Yes, sir.

Q. And he held some position on a committee; what was it?

A. He was chairman of the committee on engrossed and enrolled bills.

Q. What county was he from?

A. I think Valley, I could not tell.

Q. What was his politics?

A. Is that question pertinent? He was a Populist.

Q. Mr. Gaffin's politics?

A. Populist, the same, I believe.

Q. And Mr. Newberry's?

A. The same, I believe.

By Mr. Woolworth:

I would like to interpose an objection. It is immaterial

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whether these men were Republicans or Populists; it does make them any better or worse.

By Mr. Hastings:

I wish to be understood that I am pursuing this last examination simply to identify the men.

Q. And because these men told you to make that interlineation in that bill you did it?

A. Yes, sir.

Q. And you had no other reason?

A. No other.

Q. Are you aware whether or not it was true that the legislature had made the amendments they ordered placed in that bill?

A. I do not know.

Q. As a matter of fact, then, you cannot say whether those interlineations or additions that you made to that bill were made by the order of the legislature as a body, or whether it was made by these individual men?

A. I do not know.

Q. You say you had in your hands, or furnished you, a copy of the Iowa law, do you mean a copy of the Iowa railroad law?

A. Yes, sir.

Q. Not a copy of the statutes?

A. No, sir.

Q. A copy of their rate law?

A. Of their rate bill; yes, sir.

Q. Now, as a matter of fact, did you make or direct

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any of your clerks to make any alterations, additions, changes or amendments to the bill that came to you for engrossment, except that which was ordered by the legislature itself?

A. Do I know?

Q. Yes, do you know it was done?

A. No; I do not know it positively.

Q. And you are not willing to swear that any alterations, changes or amendments were made, except such as were ordered by the legislature itself?

A. I could not swear to it any further than this, I was led to believe it by conversation I heard.

Q. Who is the nefarious person that led you to believe that?

A. The gentlemen I have named.

Q. Mr. Rhodes?

A. Yes, sir.

Q. Mr. Newberry, from Hamilton county, I believe?

A. Yes, sir; I cannot tell you where he is from.

Q. Mr. Gaffin, the speaker?

A. Yes, sir.

Q. Were the gentlemen you named?

A; Yes, sir.

Q. Were there any other persons within the domain of your knowledge that induced you to change the record without any further knowledge than their suggestion that the legislature had made the amendment?

Objected to by Mr. Woolworth, because it does not

appear that the legislature did make the amendment; on the other hand, it appears the legislature did not make the amendment, and the counsel is misleading the witness, or undertaking to.

By the Witness:

I would like to make the statement, that when I assumed my duties there, at first I believed that I had not the authority to change a misspelled word, the letter of a word, although I had no statutes, or did not know what the statutes were, and could not find out what they were, but I was told by the speaker and by the chairman of several of the committees, including the chairman of the engrossing committee, that I had authority to make such corrections, clerical corrections, as were ordered by the speaker and the chairman of the committee to whom a bill had been referred, and the introducer of the bill. As there were some bills which came to the room in a bad condition, words misspelled, which altered the intent of a bill in some instances almost, and we were instructed that in engrossing a bill we had authority to make these corrections, but in enrolling a bill, no corrections of that nature could be made. I at that time entered a verbal protest that I believed these corrections should have been made while the bill was in the hands of the committee to whom it had been referred, I did not think it was the duty of my clerks and myself to make these corrections, but by their orders I made them.

Q. To whom are you now referring, by "their orders?"

A. The speaker and introducer of several bills, the chairman of the engrossed and enrolled bill committee.

Q. What was his name?

A. Mr. Rhodes; and the chairmen of two, to my recollection, two different committees.

Q. Who were they?

A. Mr. Porter, chairman of the railroad committee, and I think the other was Mr. Casper.

Q. What county was Mr. Casper from?

A. Butler; I would not be positive it was him.

Q. You spoke of the time you had recently examined this bill, when was that time?

A. I saw the bill to-day.

Q. Where?

A. In Lincoln.

Q. Whereabouts in Lincoln?

A. In the secretary of state's office.

Q. Did you go down there for that purpose?

A. I was taken there for that purpose.

Q. By whom?

A. By the counsel for the injunction.

Q. By Judge Woolworth you mean?

A. Yes, I believe.

Q. Now, tell me, when these men, Mr. Porter, Mr. Gaffin, Mr. Rhodes, were present and discussing that bill, you have not undertaken to give their exact language, have you?

A. No, sir.

Q. You have simply given a summary of the substance of it as you remember it?

A. Yes, that is right.

Q. And when these men said, as you have testified, that it would be easy to say, in the event that they should throw the bill out, that they were owned by the corporations, you did not mean to say that Mr. Gaffin used that language, did you?

A. No, sir.

Q. Nor Mr. Rhodes?

A. No, sir.

Q. Nor Mr. Porter?

A. I did.

Q. Did Mr. Porter use that language?

A. He did.

Q. What did these other gentlemen say when he used that language?

A. They were silent upon the subject.

Q. Your recollection is they neither assented nor dissented?

A. That is what I mean.

Q. You don't mean to testify that those four gentlemen used that language?

A. No, sir.

Q. Nor did they assent or dissent to the sentiment therein contained?

A. I would say that Mr. Rhodes did.

Q. He did assent?

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A. He did dissent; not particularly to the words either, but he gave them to understand he was not there for campaign thunder purposes.

Q. Was there any one there, to your knowledge, that claimed they were there for campaign purposes?

A. No, sir; not to my knowledge.

Q. They were all innocent of that?

A. To the best of my knowledge.

Q. And you wasn't there for campaign thunder purposes?

A. Certainly not.

Q. What was you there for?

A. I was doing my duty.

Q. And a part of your duty was to change a bill that came to your committee according to the dictates of one of these four men?

A. I was not certain as to whether it was my duty or not.

Q. But it eventuated into changing the bill when they dictated it?

A. Yes, sir.

Q. Is that true as to all of the other bills you engrossed while you were chief engrossing clerk?

A. There were a few bills, only a few, that required any clerical corrections, and so far as we were ordered, we did make the corrections.

Q. Then, if I understand you correctly, whenever either one of these four gentlemen, or unitedly, came to you

as chief engrossing clerk, and directed you to alter, or amend, or change a bill, you did it?

Objected to by Mr. Woolworth, as the witness has expressly said he did not do it in all cases.

A. No, sir.

Q. What other gentlemen, then, did direct alterations or changes in bills that came to your committee?

A. I do not believe I can name—I can name some, but I would like to know whether this is a pertinent question or not.

Q. Now, in reference to this classification that Judge Woolworth has named here, of lumber, salt, wheat, etc., that, if I understand you correctly, was an amendment made by the senate?

A. Yes, there was an amendment made at the heads of these columns.

Q. And you say there was no comma between the words wheat and flour?

A. I believe there was not.

Q. Did you add that yourself?

A. No, sir.

Q. Was that added by the engrossing committee?

A. That was stricken out, I believe, or else some other words were inserted and wheat and flour were separated.

Q. Were wheat and flour together as it came to your committee?

A. In the senate amendment, yes, sir.

Q. And somebody separated it, is that what you mean to say.

A. No, I don't know as I mean that at all. I mean that all of the articles which were included in the original bill and in the engrossed copy of the bill were inserted in the enrolled copy of the bill, and my examinations of the senate amendment to-day shows me that the articles which are mentioned in it were stricken out, which was done subsequently to the time it was brought to us.

Q. Then when you engrossed the bill the senate amendment appeared?

A. No, sir, the senate amendment did not appear until the bill was ordered enrolled.

Q. Then the senate amendment did not appear in the engrossed bill, but did appear in the enrolled bill?

A. Yes, sir.

Q. Have you in your possession a copy of the engrossed bill?

A. I have not.

Q. Have you seen a copy of the engrossed bill?

A. Yes, sir.

Q. Will you tell me if these articles appear in the engrossed bill?

A. Yes, sir, quite a number of articles appear; I think so.

Q. And as clerk of that committee, you do not know how they came in?

A. They were in the original bill introduced by Mr. Newberry.

Q. How many members of your committee were there?

A. We had ten clerks most of the time; more, part of the time.

Q. At any time how many did you have?

A. The last day, I don't know how many there were; I believe there were about sixteen when we engrossed the appropriation bills.

Q. Was there not more than sixteen?

A. There might have been.

Q. As a matter of fact wasn't there twenty-four?

A. The last day?

Q. Yes, sir.

A. I don't think there was.

Q. You would not swear there was not?

A. No, sir; I do not think there was.

Q. During the greater part of the session there were sixteen?

A. No, sir.

Q. About ten?

A. Yes, sir; ten besides the chief engrossing and chief enrolling clerks.

Q. You, as chief, did not do any of this work?

A. Yes, sir; some of it.

Q. Worked with the pen?

A. Yes, sir; quite frequently.

Q. And the balance of the time you were not at work

with your pen you were directing the remainder of the clerks.

A. Directing the rest, or comparing bills; at times there wasn't any work on hand.

Q. When you had a bill engrossed you compared it?

A. Yes, sir.

Q. Wrote your certificate upon it?

A. That was done by the committee clerk.

Q. Didn't you, as chief, make any certificate?.

A. No, sir; I simply receipted for the bill when I received it, and received a receipt when I turned it over.

Q. Did you return any bill but that it was a perfect engrossment?

Objected to as it is immaterial what he did with reference to other bills.

A. Why; we returned them, yes, sir.

Q. You returned them does not answer my question?

A. We returned them and in a few cases we had made the clerical corrections, as I have before stated.

Q. No corrections that you made, that you have any knowledge of now, except such as were clerical?

A. Well, in the bill under discussion there was corrections.

Q. This "L. C. L., less than carload lots" that you had added?

A. Yes, that might be considered as a clerical error, at least it so came.

Q. Do you mean to say the introducer of this bill came before your committee?

A. The introducer of the bill came into our room.

Q. That was before your committee?

A. It was before myself and the chief enrolling clerk, and the clerk of the committee, and these other gentlemen, members of the house.

Q. And when he came down there they were all present?

A. I think so.

Q. Now, what I want to know of you is, did you, simply because the introducer of that bill came to you, as chief of that committee, and in the presence of Mr. Gaffin, and Mr. Rhodes, and Mr. Porter, if he was there, order and direct you to change and alter that bill, is that what you mean to swear to here?

A. Yes, sir; I mean by their order and direction we made the corrections.

Q. When that bill left your room, where did it go, in the natural sequence of events?

A. Went back to the house.

Q. What was done then?

A. Read the third time.

Q. Then put upon its passage?

A. Yes, sir.

Q. Do you know of any other changes or alterations or amendments made in that bill except the addition of the term you used, "L. C. L.", and concerning this matter of the heading of the column you have testified to?

A. There was a slip added.

Q. By the senate?

A. No, but it was pasted to the original bill.

Q. Who added the slip that was pasted to the original bill?

A. I could not tell.

Q. Was that done by any of those gentlemen you have named?

A. I could not say who did it.

Q. Done by any member of your staff?

A. I think it was.

Q. Some one of the clerks?

A. I can say this; it was not on the bill when I first saw the bill when it was brought up for engrossing, but it was there when the bill was presented to me; that is, the bill was brought into the small room by the clerk of the committee, and then they were talking over these clerical errors, the correcting of this, and the clerk of the committee gave the bill to me by piece-meal, a few pages at a time, but he took a receipt for such portions of the bill he gave to me, and when I had those engrossed I would return them and he would give me others.

Q. Was that the way that this bill came into your hands and was disposed of by you?

A. By piece-meal; yes, sir.

Q. Then if I understand it, the bill came to you and was without rider or slip, as you term it?

A. No, when I first saw the bill.

Q. When it came to you that rider was attached to it?

A. I believe so.

Q. Do you know?

A. Yes, sir.

Q. When you engrossed it you engrossed that rider with the balance of the bill?

A. Yes, sir.

Q. And then sent it back to the house to be read the third time and put upon its passage?

A. Yes, sir; or rather I returned it to Mr. Knott, the clerk of the engrossing committee.

Q. That was the messenger by whom you conveyed it?

A. Yes, sir.

CROSS-EXAMINATION.

By Mr. Dillworth:

Q. You spoke of the Iowa rate law. In what shape was that law, in statutes or pamphlet?

A. It was in printed form like the bills are printed in the legislature.

Q. What year was that?

A. I do not remember.

Q. Who had it?

A. Mr. Newberry.

Q. After the bill was engrossed, what was your next duty?

A. To return it to the clerk.

Q. Didn't you compare it?

A. Yes; I consider that as part of engrossing.

Q. Who did the comparing upon House Roll 33 after it was engrossed?

A. I did, largely.

Q. What was it compared with?

A. It was compared with—I had two clerks assist me.

Q. I mean what bill was it compared with?

A. With the original after it had been sent to me. I want to say now, that I was requested by the clerk of the engrossing and enrolling committee, Mr. Knott, and so was Mr. Parsons, the chief enrolling clerk, to assist him in comparing the bills before they were given to our room, at all, and it was at that time this "L. C. L." was written in the bill.

Q. At the time of the comparison?

A. Yes; before it was given to our committee for engrossing; before it was given to me personally I assisted, and Mr. Parsons did; one of us took the printed bill and the other the original bill, and the other the Iowa bill and we examined them in that way; one would read and the other two would see.

Q. With what bill or law does the engrossed bill, House Roll No. 33, compare most favorably, with the original bill as introduced by Mr. Newberry, or the Iowa bill?

Objected to by Mr. Woolworth as introducing into the controversy an element that has no connection with this matter; immaterial and irrelevant.

A. I think that the engrossed bill will now compare with both the Iowa and the original bill

By Mr. Dillworth:

Repeat the question.

Question repeated: "With what bill or law does the engrossed bill, House Roll No. 33, compare most favorably, with the original bill as introduced by Mr. Newberry or the Iowa bill?"

Mr. Woolworth:

I object; the witness cannot state—

Mr. Dillworth:

I object to the counsel suggesting that he cannot state.

Mr. Woolworth:

The witness cannot state without having made a careful comparison of the three.

A. The original bill as introduced—the engrossed copy—is a copy, as nearly as we could make it, of the Iowa law.

Q. As I understand you to say, Mr. Shumway, the engrossed bill is a copy of the Iowa law as you made it, as the committee made it?

A. Yes; if I understand your question correctly.

Q. How much experience have you had with legislative matters?

A. None; except last winter.

Q. Who did you consider you were working for, these four gentlemen, or the people of the State of Nebraska?

A. I was working for the legislature.

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Q. Not for the people of the State of Nebraska?

A. I was a servant of the legislature.

Q. And these men represented the legislature to you, for you were working for them?

A. I am not positive but the house took some action on this.

Q. What are we to understand you to mean by "clerical errors"?

A. Why, mistakes in spelling, leaving out a word, or a few words that were intended, that puts the introducer of the bill to say what was intended.

Q. Do you remember of this bill having been submitted to the railroad committee of the house, of which Mr. Porter was chairman?

A. I do not remember at the time it was, but it was endorsed that it had been submitted to that committee.

Q. And the railroad committee made a report?

A. Yes, sir.

Q. Did you see that report?

A. No, sir.

Q. Don't you know what was contained in it?

A. No, sir.

Q. And Mr. Porter was there at the time a great many of these clerical corrections were made, was he not, and suggested them?

A. The instructions for making these clerical corrections were given when the bill was first brought up to us, and we went ahead and did it after they left.

Q. Now, you speak of these headings of these columns in the senate amendment, don't you know as a matter of fact that the house acted upon striking out the heads of those columns in that senate amendment, on those commodities of wheat, flour, corn, salt and lumber?

A. I do not know that they did.

Q. Were not those words stricken out when you got the bill?

A. I cannot say positively.

Q. Do you know who struck them out; do you know who drew that line through the words?

A. No, sir.

Q. Do you know when it was done?

A. It was not done until after the bill was brought up.

Q. Are you sure of that; wasn't this upon the floor of the house at the time the amendments were concurred in?

A. I don't think it was.

By Mr. Woolworth:

I object to that, because a concurrence would retain the four words in their place as they came down to the house from the senate, and the house would be bound, in order to get rid of them not to strike them out, but to non-concur in the amendment.

By Mr. Dilworth:

The Counsel asked the question in that manner simply to designate the time when that might have taken place.

Mr. Woolworth:

I object to it, because it was utterly impossible to have taken place in the house.

Q. As a matter of fact, at the time that this amendment, with those headings at the head of the columns, was concurred in by the house, were not those words stricken out before that, and did not Mr. Porter make the motion that that particular amendment be concurred in after those words were stricken out; is not that the record there as you see it in the house journal; that is the amendment you refer to on the bottom of page 1,045?

A. All I can say is that there might have been a motion of Mr. Porter, but the senate amendment contained those words.

Q. You do not know what the date of the Iowa law was?

A. No, sir

Q. Do you mean the Iowa rate law that is in force at the present time?

A. That is what it was supposed to be.

Q. And the classifications?

A. Yes, it was merely the classification.

Q. And these classifications were then in force there?

A. Yes, supposed to be.

Q. Does not the Iowa classifications start out with the word asset instead of advertising?

A. I do not know.

Q. Will you swear there has been any Iowa law enacted since 1888?

A. I do not know the date of the rate law, but that which purported to be the rate law was given to us, and it began with the same word the Newberry bill began with.

Q. You do not know the date?

A. No, sir.

Q. Did they tell you that was the law in force there at the present time?

A. They stated it was the Iowa freight rate law, whether it was the one in force now or some other one, I do not know, I presume it was the one in force now.

Q. Who directed you to follow the Iowa law in the comparison of these bills?

A. Mr. Rhodes directed it.

Q. For what reason, or did he state?

A. He stated he believed it was his duty, or our duty, to follow the manner of procedure which I have stated.

Q. That is, rather to follow the Iowa law than the original bill introduced by Mr. Newberry?

A. To make such corrections as Mr. Newberry, the introducer of the bill, had stated were mistakes on his part in the original draft.

Q. Was that all the corrections that were made in that bill, as Mr. Newberry sat there and directed you; did he direct all these corrections?

A. He merely said he had aimed to follow the Iowa bill, and if there were any differences between his draft and

the Iowa bill they were errors on his part, he intended to follow it word for word and letter for letter.

Q. You were directed to correct this bill by the Iowa bill?

A. Yes, sir.

Q. And you did so?

A. Yes, sir.

Q. Who brought that Iowa bill in there?

A. Mr. Newberry.

Q. In whose custody was this bill while it was in the hands of the engrossing committee?

A. In the custody of the clerk of the engrossing committee, that is, he took charge of it when they were not working upon it.

RE-EXAMINATION.

By Mr. Woolworth:

Q. When you speak about the clerical corrections of the bill by the insertion of the letters "L. C. L." and the explanation of that, you mean by that, the corrections of the bill to conform to what Mr. Newberry intended the bill should be when it was drafted by him, do you not?

A. Yes, sir.

Q. These gentlemen, or one of them, told you to insert that clause because it was in the Iowa bill, did he not?

A. Yes, sir; for that reason, and for the other reason, that the character, "L. C. L.", was used all the way through the bill, and it would have no meaning without the explanation was in the explanation of characters.

Q. I understand you to say that the senate amendment was attached to the bill when it came to your house for enrollment, am I right?

A. Yes, sir.

Q. And that senate amendment at that time had these words, wheat, flour, corn, lumber, and salt, written legibly on the amendment; am I right, for enrollment?

A. Yes, sir; at the time it came into the hands of the clerk of the committee.

Q. When it came into the hands of the clerk of the committee for enrollment, it had those words at the head of the several columns?

A. Yes, sir.

Q. That was after the bill had passed the house and after it had gone up to the senate, and after the senate had amended it, and passed it as amended, and it had come back to the house?

A. Yes, sir.

Q. Now, were the words stricken out in the enrolled bill or in the engrossed bill?

A. The words that were stricken out were stricken out of the amendment of the senate.

Q. And do I understand you to say that they were first written in the enrolled bill and then a pen drawn over them?

A. No, sir.

Q. That was done then in the senate amendment?

A. That pen was drawn through those words on the

engrossed copy of the amendment which the senate had sent to the house.

By Mr. Hastings:

Q. Was this striking out of these words you have enumerated in the senate amendment made under the order and direction of the house, or otherwise?

A. I think I stated I did not know by whose order they were stricken out.

Q. As a matter of fact, you do not know whether it was done under the direction of the house or not?

A. No, it might have been done under the direction of the house.

By Mr. Dilworth:

Q. You say these words at the head of the columns were written in a legible hand when you saw it after it had been returned to the committee for enrollment?

A. Yes, sir.

Q, Was the senate amendment you saw a printed amendment or a written amendment?

A. It was the engrossed copy, a copy that had been engrossed in the senate engrossing rooms, of the amendment, and was attached to the original engrossed copy which the house had sent to the senate.

Q. And was entirely in writing?

A. Yes, sir.

Q. And at the time you saw it that you speak of, after having been returned to the committee for enrollment, there was not a line drawn through these words at that time?

A. At the time I first saw it?

Q. No; when it was placed in the committee's hands for enrollment?

A. Yes; I think there was no line through it then.

Q. It was placed there for enrollment. What were your duties in regard to the enrolling of the bill?

A. I merely assisted Mr. Parsons.

Q. Did he request you to assist in enrolling this bill?

A. Yes, sir.

Q. Are you sure you saw this amendment at that time and in that condition?

A. I have stated it about as positively as I can be.

Each of the parties to this action agrees that a copy of the testimony this day taken shall be made and filed in each of the cases pending in the Federal Court, and that the signature to the typewritten copy, by the witness, is waived, and that the copies shall be read as if they were the original depositions.

The further taking of testimony is adjourned until Friday next, Oct. 27, 1893, at 10 A. M.

OMAHA, Friday, Oct. 27, 1893, 10 A. M.

Pursuant to adjournment, the taking of testimony was resumed as follows, viz:

Present:

J. M. WOOLWORTH,

Solicitor for Plaintiffs.

GEO. H. HASTINGS,

J. L. WEBSTER,

W. A. DILWORTH,

Solicitors for Defendants, Members of the Board of Transportation.

G. R. DOUGHTY,

being duly sworn, testified in behalf of complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, age, occupation and place of residence?

A. G. R. Doughty; age, 35; occupation, attorney-at-law; residence, Schuyler, Nebraska.

Q. Were you in attendance upon the sessions of the legislature of this state at its last session?

A. I was.

Q. Were you connected with either of the two houses of the legislature?

A. I was.

Q. Which one?

A. The senate.

Q. In what capacity?

A. As first assistant secretary.

Q. What were your duties?

A. Keeping a record of the proceedings of the senate, reading the bills, and the general duties pertaining upon the secretary of the senate; our duties were the same.

Q. Do you remember a bill coming into your house known popularly as House Roll No. 33?

A. I do.

Q. Do you remember the proceedings of the house upon that bill, or rather of the senate?

A. I would like to ask a question now. That is, what proceedings you want to find out, whether you want dates and data of every transaction, if so, I could not give that.

Q. I speak generally, do you remember what they were?

A. I do, with the exception of dates and data.

Q. Do you recall the transaction of the reading of the bill the first time?

A. I do.

Q. State how that bill was read the first time?

Objected to by Mr. Webster for the State Board of Transportation, as incompetent.

A. The title only of the bill was read the first time of the reading of the bill.

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Q. And you say it was not read at large on the first reading of the bill?

Objected to by Mr. Webster as incompetent.

A. It was not.

Q. Do you remember the transaction of the reading of the bill the second time?

A. I do.

Q. State how it was read at that time?

Objected to by Mr. Webster as incompetent.

A. The title only of the bill was read upon the second reading.

Q. You say then, it was not read at large upon the second reading of the bill?

A. It was not.

Q. Only by reading the title?

A. Reading the title.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. You were the secretary that had charge of the matters of these bills?

A. With the first secretary; yes, sir.

Q. Then you were the assistant secretary?

A. I was the first assistant secretary.

Q. Of the senate?

A. Of the senate.

Q. And as such officer you took an oath?

A. I did.

Q. And that oath recited that you would support the Constitution of the Uuited States, and the Constitution of the State of Nebraska, and that you would faithfully and impartially discharge the duties of your office, did it not?

A. That is my recollection; yes, sir.

Q. And in pursuance of that oath you read, you say, this bill twice by its title?

A. Yes, sir.

R. What kind of a certificate did you make as to the bill having been read at large on three several days?

A. I do not think there is any certificate.

Q. Was any certificate made by any officer that the bill was read at large on three several days?

A. I do not think there was.

Q. Did you or your chief certify that the bill had been duly passed in accordance with the law of the State of Nebraska and the constitution.

A. I did not; I cannot testify for what he did, whether he did or not.

Q. Now, you have a clear, distinct recollection of what happened in reference to this bill, have you?

A. The same as all other bills.

Q. Then you have the same clear and distinct recollection concerning every other bill that passed the house?

A. As to the first and second reading.

Q. Were they all read the first and second time by the title?

Objected to by Mr. Woolworth as immaterial and not cross-examination.

A. They were.

Q. No bill, then if I understand you correctly, was read at large the first and second time?

A. Not to my recollection.

Q. You have no recollection of any bill that passed the last house, or senate rather, being read the first and the second time at large?

A. No sir, I have not.

Q. But invariably they were read by their title only?

A. That is right; that is my recollection.

Q. Is there any particular fact that calls your attention to this House Roll No. 33 more clearly and distinctly than to any other bill?

A. No sir, there was not; if the attorney general would allow me, and the attorneys here to put in an explanation, I would desire to do so.

By Mr. Woolworth:

Do so if you want to.

Mr. Hastings:

I have no objection.

Witness:

It is in reference to the oath I took.

Mr. Webster:

We are not concerned about that, don't ask any volunteer evidence about that.

RE-EXAMINATION. 371

By Mr. Woolworth:

Q. Well, Mr. Doughty, make the explanation you were about to make?

Objected to by Mr. Webster as immaterial and irrelevant, and not responsive to any question.

A. Simply as an explanation—after I had been there a day or two, in reference to the reading of these bills, I called the attention of the chief secretary to the fact that we were not reading the bills at large in compliance with the constitution.

Q. Who was the chief secretary?

A. H. A. Edwards, of Grand Island; he was secretary of the senate over me—that we were not reading the bills at large as required by the constitution; he having been in the previous senate, said that that was the usual mode of reading the bills at that time, and I had nothing further to say. I complied with his orders.

JAMES E. NORTH,

being duly sworn, testified in behalf of complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, age, place of residence and occupation?

A. James E. North; age, 55; I am at present collector of internal revenue of Nebraska; residence at Columbus.

Q. Were you a member of the last legislature of this state?

A. Yes, I was a member of the senate.

Q. What district did you represent?

A. The Twelfth.

Q. What counties did that contain?

A. Platte and Colfax.

Q. Were you in attendance upon the sessions of the legislature from beginning to adjournment?

A. Yes, I do not think I missed a day's attendance during the session.

Q. Do you remember of there being an act before the senate, introduced originally in the house, coming up to the senate from the house, known as House Roll No. 33, to regulate railroads, etc.?

By Mr. Hastings:

I wish to interpose an objection—the record is the best evidence of the introduction or bringing to the senate the house bill.

A. Yes, sir.

Q. Do you remember the transaction of the reading of the bill the first time in the senate?

Objected to by Mr. Hastings, as the record is the best evidence.

A. Yes, I think I recollect it very distinctly.

Q. State how the bill was read the first time?

A. Read by its title.

Q. State whether or not it was read at large?

Objected to by Mr. Hastings, as the record is the best evidence.

By Mr. Webster:

The record would be the best and only evidence of what was done with reference to the reading or passing of the bill.

A. No, sir, it was not read at large.

Q. Was any part of it read except the title?

Objected to by Mr. Webster, as the record is the best and only evidence.

A. I should say not; there might have been a few words read of the first section, but it is doubtful.

Q. Do you remember the transaction of the reading of the bill the second time.

Objected to by Mr. Hastings, as the record is the best and only evidence.

A. I do.

Q. How was it read at that time?

Objected to by Mr. Webster, as the record is the best and only evidence.

A. By its title.

Q. Was it read at large?

A. Not at all.

Q. State whether or not at any time during the course of the proceedings of the senate upon this bill the attention

of that body was called to the fact that the bill was not read at large on the first and second reading?

Objected to by Mr. Webster, as the record is the best evidence—immaterial and irrelevant.

A. The attention of the senate was called to that fact on the final passage, and I think it had been before, previous to the time the bill was upon passage.

Q. Who called the attention of that body to this fact?

Objected to by Mr. Webster, as the record is the best evidence—immaterial and irrelevant.

A. Quite a number of the members of the body who were opposed to the passage of the bill.

Q. Can you name any of them?

A. Yes, sir; there was Senator Pope, Babcock, Mattis, Moore; perhaps others, I could not say positively.

Q. Did you do so?

A. Yes, sir.

Q. What did you say in that behalf?

By Mr. Webster:

Q. Was what you said at that time made a matter of record?

A. Our objections to the passage of the bill were made a matter of record.

By Mr. Webster:

Then I object to any oral testimony as to what they were, the record being the proper and best evidence.

By Mr. Woolworth:

Read the question.

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Question repeated: What did you say in that behalf?

A. I said a good many things; that I did not think the bill was constitutional, that there were many defects in the bill aside from the fact that it had not been read at large on the three different days; that the printed copy of the bill in the hands of the senators was not a copy of the bill as read by the secretary; there was quite a number of differences in the printed copy and the engrossed copy, according to the reading.

Q. What did you say particularly with reference to the bill not having been read at large on the first and second readings?

By Mr. Webster:

The same objection as last above.

A. Well, that was made a matter of record, what was said.

Q. State what you remember.

A. I said I objected to the passage of the bill, when it was put upon final passage for the reason it had not been read at large as the constitution required.

Q. On the first and second readings?

A. Yes, on three separate days.

Q. And did you protest against the final passage of the bill cover that objection?

A. Yes, sir.

CROSS-EXAMINATION.

By Mr. Webster:

Q. You were trying to defeat the passage of that bill when you made that protest, wasn't you?

A. Well, no; I cannot say I was trying to defeat the passage of it; I was trying to get a chance to discuss the bill, I did not expect at any time to defeat the passage of it.

Q. You expected to vote against it?

A. I did.

Q. And did vote against it?

A. Yes, sir.

Q. And you wanted to tell the whole general public why you wanted to vote against it, and that is why you wanted to discuss it, and why you made this protest, which was in the form of a written production, was it not?

A. I was not informing the general public on the written protest that was entered there; my information to the public or to the members of the senate was oral.

Q. What you put in writing, was that not made a matter of record?

A. What we put in writing was.

Q. And what you did upon the passage of this bill was made a matter of record, was it not?

A. Our votes on the bill were a matter of record.

Q. And the secretaries kept a record of the proceedings, did not they?

A. I presume they kept a record of the proceedings.

Q. They were read to you every morning, and approved by your body as being correct?

A. The proceedings read?

By Mr. Hastings:

That is your journal.

A. No, sir.

By Mr. Webster:

Q. Were they submitted to the president for approval?

A. They were usually on a motion from some senator. The reading of the minutes were dispensed with in order to proceed without reading.

Q. You voted for that right along, didn't you?

A. No, sir; I did not.

Q. Did you vote no?

A. I cannot say I recorded my vote no every time.

Q. Did you vote at all, or did you sit behind your desk and let the machine run?

A. On that question I usually let it run.

Q. And you submitted there to what was done and didn't enter a protest?

A. Yes, sir.

Q. Did you recognize the gentlemen who testified just before you as one of the persons who was keeping the record?

A. I did.

Q. I will ask you if the record which was kept was a perfect record of the proceedings?

A. So far as I know; I never examined the record, consequently I know nothing about it.

Q. You have been a member of a legislative body before this?

A. Yes, sir.

Q. And did you know that that was the way the legislature of this state had been in the habit of doing, reading a bill the first and second time by the title?

A. No, sir, I cannot say that I did.

Q. Do you know of an instance where it was ever done in any other way?

A. Yes, sir.

Q. When?

A. In 1877.

Q. What bill was that you have in mind?

A. I cannot refer to the bill, but nearly all the bills passed during that session were read at large.

Q. You speak of the senate or the house?

A. The senate.

Q. Which time were they read at large?

A Every time they were read.

Q. And how many times were they read in 1877?

A. Three times.

Q. Now, in this legislature you were in the last time, how were the bills read the first time?

A. By the title, usually.

Q. The second time?

A. The same way.

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Q. So that all the other bills that were passed by the senate of which you were a member the last time were read just as this bill in controversy was read, the first and second time by title?

A. Yes, sir.

Q. And you voted for the passage of a great many of those laws?

A. Very few.

Q. You voted for all that were favorable to your political faith, and the balance you didn't?

A. I don't know as there were very many favorable to my politics.

Q. Did you have any that helped your party out?

A. I don't know as there was any bills belonged to our political faith.

Q. This was the only bill you took the pains to enter a protest about because it was not read on the first and second readings?

A. Yes, I felt more interest in this bill.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. North, did the governor interpose any objection to the final passage of this bill?

Objected to by Mr. Webster, as the record is the best evidence.

Q. The lieutenant governor, presiding in the senate,

did he make any objection to the final passage of this bill on account of its not having read at large?

Objected to, as the record is the best evidence—irrelevant, immaterial.

A. According to my recollection, after the written protest was sent up by a number of senators against the passage of the bill, for the reason that it had not been read at large on three separate days, the lieutenant governor did file a written explanation, as he said, in self-defense, showing why this bill had not been read at large on three separate days.

Q. Then he stated orally to the house that it had not been read at large three times, on three different days?

Objected to by Mr. Webster, as the record is the best evidence—immaterial and irrelevant.

A. Yes, sir.

WILLIAM N. BABCOCK,

being duly sworn, testified in behalf of complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, age, occupation and place of residence?

A. William N. Babcock; age, 46; reside in Omaha; general manager of the Union Stocks Yards Co., Omaha.

Q. Were you a member of the last legislature?

A. Yes, sir.

Q. Which house?

A. Senate.

Q. What district?

A. Sixth District.

Q. What counties were included in that district?

A. Douglas county.

Q. Were you in attendance upon the sittings of the senate during the sessions of the legislature from the convening of the legislature to its final adjournment?

A. Yes, sir.

Q. During the proceedings of your house upon the bill popularly known as House Roll No. 33?

A. Yes, sir.

Q. Do you recall the transaction of the reading of the bill the first time?

A. Yes, sir.

Q. How was the bill read the first time?

Objected to by Mr. Webster, as the record is the best evidence—incompetent.

A. By its title.

Q. Was it read at large on the first reading of the bill?

A. No, sir.

Q. Was it read otherwise than by its title?

Objected to by Mr. Webster as incompetent, the record being the best evidence.

A. No, sir.

Q. How was it read the second time?

Objected to by Mr. Webster as incompetent, the record being the best evidence.

A. By its title.

Q. Was it read at large at that time?

A. No, sir.

Q. Was it read otherwise than by its title?

A. No, sir.

Q. At any time during the proceedings of the senate on this bill was the attention of that body called to the manner in which it was read on the first and second time by its title, and not at large?

Objected to by Mr. Webster as incompetent, immaterial.

A. The bill came up for final passage, and the attention was called to the fact that the bill had been read but twice by its title on two separate days.

Q. Who made these objections?

A. Several of the senators.

Q. Did you make the objection?

A. Yes, sir.

Q. What did you say?

By Mr. Webster:

Q. Was what you said a matter of record?

A. No sir, I don't think it was.

Objected to by Mr. Webster as irrelevant, immaterial.

A. I merely called the senate's attention to the fact that the bill had not been read three separate times, but

twice by its title, and the third time, upon its passage, it was read in full.

By Mr. Woolworth:

Q. You mean to say you called the attention of the senate to the fact that it was read the first and second times only by its title?

A. Yes, sir.

Q. State whether or not the lieutenant governor, presiding in the senate at the time the bill was passed, or came up for final passage, made any statement to the house on that subject.

A. My recollections are that the lieutenant governor, acting as president of the senate, made a statement to the body that the bill had not been read in its entirety three different times, twice by its title, and upon the final passage had been read in full; I am also of the opinion that he offered a written statement to that effect, and I believe an effort was made to have it spread upon the record, but I do not remember now whether it was or not.

CROSS-EXAMINATION.

By Mr. Webster:

Q. This bill was read just like all the other bills, read in the senate the first and second time, by title?

A. That is my recollection; yes, sir.

Q. You had been a member of the Nebraska legislature before this last session?

A. No, sir.

Q. Is that your first experience in legislative politics?

A. My first performance as a member.

By Mr. Hastings:

Q. Do you know, Senator Babcock, of any bill that was introduced or passed through the body of which you were a member, by which the course of its passage was different from that of House Roll No. 33?

A. No, sir.

Q. No exception then, was made concerning this particular bill than that of other bills?

A. Not to my recollection.

By Mr. Woolworth:

Q. Mr. Babcock, I would like to ask you another question. When we were taking testimony the other day the learned attorney general inquired of the witness what the politics were of several of the members of the house. I would like to inquire of you what were the politics of the secretary of the senate?

By Mr. Hastings:

Permit me to make the objection that it is immaterial what the politics of the secretary were.

A. I do not know what his politics were.

By Mr. Hastings:

I wish to say that it is true that I did make those inquiries, but I did that owing to the peculiar character of the testimony we were then taking.

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By Mr. Woolworth:

The character of that testimony was adverse to the attorney general.

Adjourned to Wednesday, Nov. 1, at 10 A. M.

OMAHA, Nov. 1, 1893, 10:00 A. M.

Present:

J. M. WOOLWORTH,

Solicitor for Plaintiffs.

J. L. WEBSTER,

Solicitor for Defendants, Members of the State Board of Transportation.

The taking of testimony is resumed, pursuant to adjournment, as follows, viz:

JACOB NORTH,

being duly sworn, testified as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, age, occupation and place of residence?

A. Jacob North; 55 years old; printer; Lincoln, Nebraska.

Q. Do you hold any office of trust in this state, if so, state what it is?

A. No, sir, I do not hold any at all. I am on the library board, that is all.

Q. What had you to do with the printing for the legislature at the last session?

A. Printed the bills and a good many of the officer's reports; most of them.

Q. Were you the only person charged with that business?

A. I was the only person charged with the printing of the bills.

Q. Look at the paper I now show you, the same being entitled "Legislature of Nebraska, Twenty-third Session, House Roll No. 33," being 200 pages.

A. Yes, sir.

Q. State whether or not that is a copy of the original bill, as it purports to be.

A. Of course, so far as I can tell by comparing it with my bound copy, it is exactly the same; of course I have not gone through it.

Q. Can you go through with it so as to state?

A. I tell you what I can swear to; I can swear the copy in there is all right, and I will leave that here with you if you wish, and you can get somebody to swear to it.

Q. Have you with you a copy of the bill?

A. Yes, sir.

Q. Is that a true copy?

A. Yes, sir.

Q. Was the bill as printed an exact copy of the bill furnished to you to be printed?

A. How is that?

Q. Was your printed copy of the bill an exact copy of the one furnished to you by the legislature to be printed?

A. I do not know; the state furnished a proof reader and a copy-holder, so it exonerated me from all responsibility as to correctness, and they were responsible for the correctness of the bill.

Q. Your print, then, I understand you, is one of the copies which you furnished to the legislature?

A. Yes, sir.

Q. Who were the proof readers and copy holder?

A. John Sanderlands, from Boone county, I forget his postoffice; I do not know the names of the others; I never learned the names, there were two others relieved each other, and they had their office in my printing office, to read the proofs; no, they were for the senate, I do not know anything about the house readers; these proof readers that were in my house were from the senate.

Q. Do you know whether your print of the bill was read by the proof readers and copy-holders of the house?

A. Oh, yes, sir. Let me correct a statement. I come to think of it, they all had their office in my quarters, the house as well as the senate, I had forgotten that; but I cannot remember the names, you could find out from the list of employees.

Q. Then I understand you that your print of the bill

is the one which you furnished to the proof readers and and copy-holders, for the legislature, and when you furnished your printed copies of the bill your duties in that behalf ceased?

A. Yes, sir; except the Secretary of State, I think it was, asked me to keep him out a copy of each, and bind it at the end of the session, which I did.

Q. Then I understand you to state that the Secretary of State has in his office a printed copy of every bill printed by you?

A. Yes; just like this.

Q. And of all the amendments that were printed by you?

A. Yes; every one; I had to be very particular about that, because my pay depended on my having every page that was printed preserved to show the printing board how many pages I had.

Q. You cannot tell, then, whether the printed copy of the original bill, which I have shown you, is correct, without making a comparison of it with the copy which you re-retained as state printer?

A. That is the only thing; of course, I have not the slightest doubt that it is all right, but would not like to swear to it unless I compared it line for line; it bears all the ear-marks of my print and type.

Q. Can you tell how many amendments of House Roll No. 33 you printed?

A. Yes, sir.

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Q. State how many you printed from the House; how many House amendments you printed.

A. Here is one, I do not know whether it is a Senate amendment or a House amendment, it was recommended by the Senate railroad committee, whether it was inaugurated in the House or sent down by the Senate I cannot tell.

Q. Then I will put my question in another form; state the heading of the first amendment.

A. "Amendment to House Roll No. 33. Recommended by the Committee on Railroads, and ordered printed by the House, February 21, 1893."

Q. How many pages does that amendment contain?

A. Eleven pages.

Q. Are these eleven pages all of the amendment as printed by you?

A. Yes, sir.

Q. And that, I understand you to say, is the print which you furnished to the proper officer of the House, charged with superintending the printing?

A. Yes, sir; they were furnished, I think, to the Secretary of State; I think he had charge of them; they were furnished the proper party, anyhow.

Q. State the next amendment?

A. I am not quite certain about that, because I am not quite certain I have them all in their order.

Q. You can tell by their date?

A. There is one has no date on. "Amendment to House Roll No. 33. Amendment to the Amendment of

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House Roll No. 33, as recommended by the Senate Railroad Committee."

Q. How many pages are there of that amendment?

A. One page.

Q. Is that one page all of the print made by you?

A. Yes, sir.

Q. And you furnished it to the legislature in the usual course of business?

A. Yes, sir.

Q. State the next one?

A. "Amendments to House Roll No. 33 adopted by the House, March 3, 1893."

Q. How many pages of that amendment?

A. One page.

Q. And is that all of the amendment which you printed?

A. Yes, sir.

Q. State the next one?

A. The next one is "Senate Amendment to House Roll No. 33".

Q. How many pages are there of that?

A. One.

Q. State whether that is the whole of the amendment as printed by you.

A. Yes, sir.

Q. And you furnished it to the proper officer?

A. Yes, sir.

Q. For use in the legislature?

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A. Yes, sir.

Q. Will you state the next?

A. "Senate Amendment to House Roll No. 33." That is all the heading there is; that is all they sent down; we printed it as they sent it down.

Q. How many pages of that amendment?

A. One page.

Q. Is that all there was of it?

A. Yes, sir.

Q. And you furnished it to the proper officer for the use of the legislature?

A. Yes, sir.

Q. State the next one?

A. "Senate Amendment to House Roll No. 33. Adopted by the Senate in Committee of the Whole."

Q. How many pages are there of that?

A. Two pages.

Q. Is that all there was of that amendment?

A. Yes, sir.

Q. You furnished that, did you, to the legislature, in due course of business, as state printer?

A. Yes, sir.

Q. State the next one?

A. That is all.

Q. How many amendments in the two Houses did you print?

A. Six amendments.

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Q. Did you print any more than these six amendments?

A. No, sir.

By Mr. Woolworth:

I shall ask Mr. North to make a comparison of the original printed bill which I showed to him at the opening of this examination, with his own official copy, and also of each of the six several amendments of which he has already spoken, and endorse each of these copies with his certificate, or other mark, so as distinctly to identify them, and after he has made the comparison I shall ask him to state whether the copy shown him is correct. In the meantime I will adjourn the examination, and of the re-opening all parties shall be given notice.

LINCOLN, NEB., Saturday, Dec. 16, 1893, 10 A. M.

Present:

J. M. WOOLWORTH,

Solicitor for Plaintiffs.

GEO. H. HASTINGS,

W. A. DILWORTH,

Solicitors for Defendants, Members of the Board of Transportation.

JACOB NORTH,

heretofore sworn, recalled by the complainants.

By Mr. Woolworth:

Q. Mr. North, look at the book I now show you, and state whether it is an exact copy of the bill House Roll No. 33, and all the amendments thereto, printed by you for the House of Representatives of the legislature at its last session?

A. Yes, that is all right.

Q. And state if the same is in all respects correct?

A. Yes, sir.

The complainants offer the book in evidence, marked "Exhibit 1."

CROSS-EXAMINATION.

By Mr. Hastings:

Q. The bill you refer to is the printed bill known as House Roll No. 33, is it?

A. Yes, sir.

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Q. And that is the same bill that you have printed for the state?

A. Yes, sir.

Q. Under an order of the legislature?

A. Yes, sir.

Q. And the bill that you have put into testimony is simply a copy of the bill as you printed it?

A. Yes, sir; that is one that was printed for the legislature.

The complainants offer in evidence a certified copy of the journal of the Secretary of the Senate of the proceedings of that body at the last session of the legislature, in respect of the bill known as House Roll No. 33, which is marked "Exhibit 2", and attached to this testimony.

Objected to on the ground that it is incompetent, immaterial and not properly identified.

By Mr. Woolworth:

I produce to the examiner one page of the journal of the Senate of its proceedings on Friday, March 10, 1893, and desire him to make a copy of the same, stating in his copy what parts are in print and what in writing, and attach the same to his report of these proceedings, which said page is attached hereto, marked "Exhibit 3".

W. A. DILWORTH, sworn, testifies as follows, in behalf of plaintiff, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Are you one of the defendants in this case?

A. Yes, sir.

Q. And one of the secretaries of the Board of Transportation, are you?

A. Yes, sir.

Q. State whether or not you have compared the rates fixed in House Roll No. 33 with the tariff rates of the railroad companies, namely: The Union Pacific, The Burlington & Missouri, The Fremont, Elkhorn & Missouri Valley, and the Missouri Pacific, for the purpose of ascertaining the reductions made by the act known as House Roll No. 33?

A. I have so far as the local rates in force on those roads are concerned.

Q. What did you find the reductions to be?

A. They are different on different classes. My recollection now is—I could go to the office and tell by referring to a memorandum—about 29½ or 30 per cent. on an average on all the classes.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. Did you compare those as fixed by House Roll No. 33 with the rates of any of the adjoining states now in force?

A. I have made out tabulated statements of them.

Q. Do you remember how the local rates, as fixed by House Roll No. 33, compare with the local rates in the state of Iowa, for instance?

A. It is higher than the State of Iowa, but how much I do not remember.

Q. Then, taking all the commodities that are named and fixed by the provisions of House Roll No. 33 it makes an average reduction on all the commodities of local rates of an average of 29 or 30 per cent?

A. Something like that.

Q. Is it greater or less?

A. My recollection is it is exactly 29½, some a little higher and some a little lower.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Dilworth, you have been asked with reference to the rates fixed by House Roll No. 33 as compared with the rates fixed by the authorities of Iowa; have you examined the exhibit attached to the bill in these several cases, the Union Pacific and other cases, in which the rates given in the several states of Minnesota, Illinois, Kansas and other states are given?

A. Yes, I have examined them to some extent.

Q. Can you state whether or not you have found them to be correctly stated in that exhibit?

A. Well, in some cases it is hard to tell whether, for

the purpose of giving some towns a better rate, they have not juggled with the distances of that town out, that is the only thing; but so far as the rate sheets are concerned, the rates are correctly stated there.

Q. What do you mean by juggling with the rates in respect to distances, do you mean juggling with the rates as given in House Roll No. 33, or as given in the exhibit.

A. I mean this, for instance there is a jobbing center, some place the railroad wants to build up; they will go to work and establish a tariff of so much per ton per mile out from that town, but instead of giving the true and actual distance of these other towns from that place they will make it shorter or greater.

Q. Then the juggling may have been done by giving the incorrect distances from one point to another?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By Mr. Hastings:

Q. Do you mean that was done in the rate sheet as attached to an exhibit in the bills, or whether it was done in House Roll No. 33, or both?

A. I do not say it was done in either one, because I do not know, but I was comparing these rates of the different states with the jobbers' rates that were in force in certain localities.

Q. Has it been done in any instance you know of in House Roll No. 33?

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A. No, sir; not that I know of; House Roll No. 33 is a flat rate, so much for every five miles; they don't undertake to make the distances from any place, at all.

By Mr. Woolworth:

Q. Will you please tell us the reduction made by House Roll No. 33 from the tariffs of the railroad companies on the different classes and the different commodities mentioned in House Roll No. 33?

A. First class, 30; second class, 27; third class, 26 fourth class, 29; fifth class, 35; class A, 32; class B, 34; class C, 32; class D, 31; class E, 19.

Q. And can you give what it is on commodities?

A. Yes on grain and live stock, and wheat, flour and mill stuff, was 14.

Q. The reduction was 14?

A. Yes, sir; other grains, 14; lumber, 39; salt, 34; horses and mules, 30; cattle and hogs, 28, and sheep, 18, hay is shipped in class E; the Newberry Bill puts it in class E, and doubles the rate.

Q. This average reduction is in carload lots?

A. It is, except in the first five classes.

Q. That is in hundred pounds, is it?

A. Yes, sir.

Q. Class E, can you tell us of what that is composed?

A. That consists of articles that are of very little value and very bulky, and that can be shipped on flat cars at the carrier's own time, such as sand and some rock, and hay, and stone, and things of that character.

By Mr. Woolworth:

I present to the examiner at the office of the Secretary of State, the original bill as introduced in the House, and ask him to copy and attach to his report of these proceedings the third page, particularly giving an interlineation in line 11 from the top, "L. C. L.—for less than carload"—also giving the slips pasted on to the page, so that his copy will show what changes have been made. Said copy is hereto attached, marked "Exhibit 4".

Adjourned until Thursday, December 21, at Omaha.

OMAHA, Neb., December 21, 1893, 2. P. M.

The further taking of testimony was resumed as follows:

G. O. DOUGHTY recalled by the plaintiff.

Examined by Mr. Woolworth:

Q. Mr. Doughty, what was the title of House Roll No. 33 when it came into the senate from the house?

Objected to as not the best evidence.

A. The title was as it appears now upon the bill without the penalty clause attached upon the heading of the bill.

Q. State particularly what were the words that were not upon the bill, or not incorporated in the title of the bill when it came into the Senate?

A. The words that were not incorporated in the title of the bill as it came from the house of representatives to the Senate, when it was received by the Senate from the

chief clerk of the House, were "And to provide penalties for the violation of this act".

Q. Are you acquainted with the handwriting of H. A. Edwards, the chief clerk of the Senate?

A. I am to a certain extent, yes, sir.

Q. Have you ever seen him write?

A. I have become familiar with his writing during the session of the last legislature.

Q. I call your attention to the message from the House, through Eric Johnson, its chief clerk, to the Senate, and to the fact that a part of the title of the bill was in print, and a part appears now in handwriting, the part in handwriting being "and to provide penalties for the violation of this act". I wish in the first place, you would state whether you have examined lately the journal of the Senate, and particularly the page of the journal of the Senate, in which the original message from the House appears?

A. I have.

Q. When did you do it?

A. I examined that journal on the 2nd day of November, 1893.

Q. State in whose handwriting the words are, "and to provide penalties for the violation of this act?"

A. The words to which you have alluded are written upon the title of the bill in the message in red ink in the handwriting of H. A. Edwards, Secretary of the Senate, written with a pen and ink.

Q. Mr. Doughty, I want you to state how you came

to make that examination, because the charge has been made that you—

A. From my recollection of the matter, judge, when I was on the stand before I was asked some questions to which I did not desire to testify, for the reason I did not know what the records contained, and therefore, I did not feel sure what was in the records so as to be confronted by testimony that was not in the records; I therefore, made an examination of the records in person.

Q. Did you do that at the instance of the plaintiffs in this case?

A. I did not; I did it on my own motion.

Q. Did you do it at the instance of any railroad officials?

A. I am not acquainted with any railroad officials of the Burlington & Missouri Railroad, the Fremont & Elkhorn.

Q. Or the Union Pacific?

A. No, sir.

Q. Then answer the question?

A. I did not.

Q. You have stated all that led you to make the examination, have you?

A. I have.

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CROSS-EXAMINATION.

By Mr. Dilworth:

Q. What you have testified to is contained in the records down at Lincoln?

A. Is contained in the original copies of the Senate journals?

Q. In the original journals?

A. Yes, in the original journals; strike out the word copies.

Q. Now, you refer to the bill sent over from the House to the Senate; which bill was that, the engrossed bill or the original bill as it was first introduced?

A. I refer to House Roll No. 33 as it came to the Senate from the House after its passage by the House; the original bill as it passed the House of Representatives, with the message of the clerk with the bill.

Q. The original bill?

A. Yes, sir.

Q. And not the bill as engrossed after the third reading?

A. No, sir; the original bill as it came from the House of Representatives on the 10th day of March, 1893.

Q. How did the amendments to that bill come, in what form?

A. That I am unable to say.

Q. Do you remember if there was more than one package of papers in connection with this bill at that time,

brought in from the House, or was it all one package of papers tied together in one bundle?

A. My recollection is it all came together, one package; I think it was tied together with a string.

Q. From that I would infer that the original bill as it appears now came into the Senate from the House with all the amendments connected therewith?

A. That I would not want to say, as it appears now.

Q. If that was the case would not these amendments be attached to the bill now?

A. Let me answer the previous question. That I would not want to state, as it appears now, as the Senate has made a lot of amendments on the bill.

Q. Not taking into consideration Senate amendments?

A. The presumption would be, I presume that it would, although, if I recollect right, the House made an amendment or two after it went back from the Senate, that is only my recollection; I think they did; my recollection is one of them was relating to roads built the previous year.

Q. That was concurred in by the House?

A. I think so.

Q. Your recollection of these matters you have just testified to in your examination in chief is just as good as your recollection of the form of these bills that came into the Senate?

A. No, sir; it is better; I have made an examination of the matters I have testified to in chief, but did not make

an examination of the original bill to see what was attached to it when it came into the House.

Q. You did not examine the original bill?

A. No, sir.

Q. When was your attention first called to the fact that the message contained writing by Mr. Edwards?

A. Not until the day I examined it.

Q. No one ever called your attention to it?

A. No, sir; I never saw it before.

Q. You have made several examinations of documents on file in the Secretary of States's office, in relation to the passage of House Roll No. '33?

A. Only on the 2nd day of November; is the only time I have ever made an examination.

By Mr. Dilworth:

I move to strike out the evidence of Mr. Doughty taken today for the reason that it tends to contradict the records.

By Mr. Woolworth:

Q. Have you examined any other records there of the Secretary of the Senate or any of his subordinates for the purpose of verifying your recollection as to the title when it first came from the House into the Senate?

A. Yes, sir.

Q. What documents have you examined for that purpose?

A. It was the clerk's records of the bills passed by the House of Representatives and the actions taken on them by the Senate. Let me state here in conjunction with that, our

bill clerk and bookkeeper were one and the same person; officiated in both capacities.

Q. What was his duty?

A. His duty was to keep the accounts of the members of the Senate and the employees, to keep the records of all bills introduced in the Senate or received from the House of Representatives, and every action, and the date of every action taken on those bills.

Q. Do you mean the record of the action, or to make notes of the bills and the proceedings thereon in his bill book?

A. I presume that would be the correct answer to it; yes, sir.

Q. Was it his duty to insert in this bill book the title of the bills as the same came from the House to the Senate for his action?

A. Yes, on the day a bill was introduced in the Senate or received from the House in the Senate, he would make a note of the introduction of that bill and the date of it, and the title the bill contained when it was so received or introduced.

Q. That was his special duty, was it?

A. That was one of his special duties.

Q. State whether in that record these words, which you say were in the handwriting of the secretary of the Senate, appear?

A. They did not appear in the title as recorded in that book, on the 2nd day of November this year.

Q. You examined that book at that time, did you?

A. Yes, sir.

Q. For what purpose?

A. For the purpose of refreshing my memory in testifying.

RE-CROSS-EXAMINATION.

By Mr. Dilworth:

Q. Let us get at this. What bill is it that goes from the one house to the other, is it the original bill, or the engrossed bill, engrossed after the third reading?

A. It is the orignal bill.

Q. And the House that passes the original bill keeps the engrossed bill in its possession, that is it?

A. That is my recollection.

Q. Now, if you are mistaken on that, then it might have been the engrossed bill that came to the Senate from the House?

A. If I am mistaken it may have been, but I do not think it was; that is my recollection, it is the original bill that goes from one House to the other.

Q. Have you examined the engrossed bill?

A. No, sir.

Q. As engrossed by the House after the third reading?

A. No, sir.

Q. Then you do not know whether that title is in the engrossed bill as it is in the enrolled bill to-day?

A. I do not.

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Q. Did you see the bill when it came to the Senate?

A. I did.

Q. Did you read the title of it at that time?

A. I would not be sure; usually Mr. Edwards read the bills out the first and second reading.

Q. What was your duty?

A. My duty was the same as the first secretary's in his absence, or when he was there we usually took turns in reading the bills; if there was a large number of them he would read until he got tired and then I would read.

Q. Who kept the journal of the House?

A. We did that together. Not to exculpate myself at all, but in the matter of the journal entries with reference to House Roll No. 33, he requested that that part of the journal entries relating to House Roll No. 33 be left to him, as he desired to do it himself; I had very little, if anything, to do with making the entries on House Roll No. 33 as they appear on the record to-day.

Q. Do you know whether the title of the bill was read the first time as it came from the House?

A. That I could not say.

Q. If the journal should show that, would not that be correct?

A. No, I do not think it would.

Q. Then I am to infer that the officials or employees of the Senate kept a false record of the proceedings?

A. No, sir, not at all; I can refresh my memory, if I am permitted to do so, as to what title the bill was read the

first time; the title that House Roll No. 33 had on its first reading on March 13, 1893, was the title as it now appears on the bill, without the penalty clause attached, as shown by the journal record.

By Mr. Woolworth:

Read the title.

Witness:

This is the title: "House Roll No. 33. A bill for an act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska." That is the title as the journal shows the bill had upon its first reading.

By Mr. Dilworth:

Q. Did you read any portion of that bill to the Senate at any time?

A. I did.

Q. Do you remember whether it was written on both sides of the page, or only one side?

A. Only on one side.

Q. Only on one side?

A. Yes. I only read a portion of the bill, of the last part of the bill; during the fore part of the reading of the bill in the deadlock I was at home, and arrived back there in time enough to finish probably a third of the bill; what I read was only written on one side of the paper.

Q. That is the bill that came from the House?

A. Yes, sir.

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Q. And that is the bill you think is the orignal House Roll No. 33?

A. It is the one; the same bill.

Adjourned until Friday, Dec. 22, 1893, at 10 A. M.

OMAHA, Dec. 22, 1893, 10 A. M.

Pursuant to adjournment, the taking of testimony was resumed as follows:

Present:

J. M. WOOLWORTH,

Solicitor for Complainants.

JNO. L. WEBSTER,

Solicitor for Defendants, Members of the Board of Transportation.

JOHN E. UTT, sworn, testified as follows, viz.:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, age and occupation?

A. Age, 44; my name is John E. Utt; I am commissioner for the Commercial Club of Omaha, office fifth floor Chamber of Commerce Building, Omaha.

Q. What are your duties as commissioner of the Commercial Club, with reference particularly to the railroads?

A. I am employed by the Commercial Club to look after transportation matters in the insterest of the City of Omaha; transportation matters affecting the city's business.

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Q. What is the object which the club, and which you have in this matter.

A. Well, we wish to arrange freight rates so that there shall be no discrimination against the business interests of Omaha in favor of some other competing point.

Q. How long have you been commissioner of the club?

A. Six months; since June 1st, last.

Q. Have you held any similar position elsewhere?

A. Yes; I was commissioner of the Lincoln Freight Bureau for three years, commencing seven years ago.

Q. Were your duties and the object of your employment the same as those you have already mentioned?

A. Yes; the relations were the same to the City of Lincoln that they are now to the City of Omaha.

Q. Have you been connected with the practical operation of the freight department of any railroad?

A. Yes; constantly from 1871 to 1886.

Q. Where did such service begin?

A. It began on the Atchison & Nebraska Railroad, a road running from Atchison, Kansas, to Lincoln, Nebraska.

Q. What was your title?

A. General freight and passenger agent most of the time.

Q. Where were you employed in like capacity afterwards?

A. I was general agent of the Rock Island road at Kansas City two years, traveling agent at Chicago for the same company about one year, and five years general passenger

and freight agent of the Cedar Rapids & Northern Railroad, with headquarters at Cedar Rapids, Iowa.

Q. I wish you to state with particularity and in detail how the increase or decrease of rates on local freight affect the rates on through freight, meaning by the term local freight, freight between points, both of which are within one state, and through rates, rates upon traffic between two or more states?

A. Well, rates in Nebraska, for example, are mostly made from points outside of the state, by adding the rate to the Missouri River to the local rate in the state from the Missouri River to form a through rate; this is true from Chicago, St. Louis and Mississippi River points, and all points east of the Mississippi River to points in Nebraska west of Lincoln. There are reasons why it is not so at Lincoln and points between the Missouri River and Lincoln, Fremont and Beatrice.

Q. Will you state why it is not so at those points?

A. Well, the rate to Lincoln is made in this way. The distance from Omaha to Lincoln is 55 miles. The rate from Chicago, St. Louis and elsewhere to Lincoln, instead of being made by adding the rate from Chicago to Omaha, plus the rate from Omaha to Lincoln, is made by adding the differential rates of five cents on the first, four cents on the second, four cents on the third, and three cents on the fourth and fifth, and two and three cents on carloads, and that is on all business, Mississippi River and east.

Q. Do you mean business from Omaha, between Omaha and Lincoln, or do you mean business from outside?

A. I mean all Mississippi River points, and St. Louis, and points east thereof, the rates are made by adding to the Missouri River rates these differential rates. Now by the action of the short haul clause of the inter-state commerce act, as there are several roads running from different directions into Lincoln from the east, all the lines reaching Lincoln are compelled to quote as low a rate as the Lincoln rates from Chicago to intermediate points. The result is, that drawing a line from Missouri Valley through Blair, Fremont, and Wahoo to Lincoln, and thence through Beatrice and Wymore to the state line, between that line thus drawn, and the Missouri River, these differentials or lower differentials apply; that is to say, the through rates do not in any instance exceed the Missouri River rates, plus the differentials made as named. Now, in reference to other inter-state rates, west of this line mentioned, they are affected in this way by the local distance tariff. Merchandise and live stock and lumber rates are made by adding the two rates based on Lincoln and Fremont to make the through rates to points west of Lincoln from Chicago and St. Louis. There is a considerable freight on which the rates are not made in this way; for example, the coal rates are not made in this way, or the grain rates. They are what is called commodity rates. But to show further how the inter-state rates are affected by the local rates, I would say that the business in the State of Nebraska, locally, is done almost altogether be-

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tween points in this state and Omaha, Lincoln, Fremont and Nebraska City, because they are centers of trade. Now, there are several lines that reach the State of Nebraska that do not reach Omaha and Lincoln, and these other points; for example, the Missouri Pacific to Hastings and Minden, and the Wyandotte and & Northwestern to Beatrice, and the Atchison, Topeka, & Santa Fe to Superior, and the St. Joe & Grand Island from St. Joe to Grand Island. Now when the local rates are reduced in this state so as to make the rates lower between Nebraska points and the jobbing centers in the state, Omaha, etc., the St. Joe & Grand Island makes the same rates to St. Joe that are made to Omaha, although the distance is greater, and other lines make the same rates to Kansas City, so that, practically, the inter-state rates between Kansas City, St. Joe, Atchison and Leavenworth and most points in Nebraska are reduced to the extent that the local rates are reduced between points in Nebraska and Omaha.

Again, the reduction of local freights in this state affects the rates beyond Nebraska, because if rates are reduced to west of the state line it cuts the through rates from Omaha to other points within this state, by reducing them. For example, to points on the Black Hills branch of the B. & M., it affects the rates through to Sheridan and on the line to Cheyenne, to a few stations this side of Cheyenne, and correspondingly on the line to Denver, and the same on all roads west. In consequence of the reduction in local rates in Nebraska two very serious questions to the railroads arise

in connection with the differentials that exist in the eastern part of the state used in making through rates, in this wise. In making the through rates from the east to points beyond Lincoln, the locals were added to the through rate to Lincoln, plus the rates beyond Lincoln. Now this put Omaha at a disadvantage. Therefore, the roads were compelled to put in a commodity tariff from Omaha to points in the state beyond Lincoln and Fremont, by taking the local rates from Lincoln to points beyond, and by adding these differentials of five, four and four, three and the two cents, to make the rates from Omaha; this was called equalization of rates, so as to put the two jobbing points on the same footing.

Now with the proposed reduction in the Newberry bill, the railroads have either to raise the through rates to Lincoln, Fremont and Beatrice and these other interior jobbing points, or they will have to let the differentials stand as they are in making through rates, and make corresponding reductions in local rates from Omaha, making them less than the Newberry bill. If, on the other hand, they raise the rates to Lincoln, Fremont and Beatrice, and other interior points by adding the rates to and from the Missouri River, to make the through rates, the local rates would not be reduced from Omaha; so that makes two horns to the dilemma, and it is quite a serious question to overcome, because there are large business communities in either case which will be dissatisfied unless the old basis is continued; if the local rates are raised from Omaha to Fremont, Lincoln and Beatrice, it will destroy the manufacturing and

jobbing interests in those cities, that amounts to at least $10,000,000 per annum.

Q. How will the converse be?

A. If, on the other hand, they let the through rates stand to those points, and do not put in reduced rates from Omaha it would be a corresponding disaster to business in Omaha because they would be undersold by Lincoln, Fremont and Beatrice.

Q. I understand the reason for making these differentials between Omaha and Lincoln and other points is because those are large jobbing points in the interior, is that so?

A. Yes, that is a fact. Lincoln is a large jobbing center, and had enjoyed almost the Omaha rates from Chicago and St. Louis before the inter-state act was put into effect. There are roads running to Lincoln that did not run into Omaha, and they put these low rates into effect for the purpose of getting their share of Nebraska business, but after the law took effect, the business was so large that the roads tried to raise the rates, and failed in doing it, on account of the pressure brought to bear by the jobbing interests at that point.

Q. State whether the reduction of the local rates affects rates beyond Nebraska, and if so, how?

A. Taking the through rate from Omaha to a point beyond the Nebraska line to-day, it would be higher than the local rate to the state line plus the locol rate that exists beyond the state line. It is impossible to charge a through

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rate that is higher than the sum of two rates that make a less through rate.

Q. Then how does the reduction of the rate in Nebraska cause a decrease in the through rates?

A. The rates beyond the state line on the Black Hills branch decrease to Sheridan and almost to Cheyenne and Denver on the other line, from Omaha.

Q. Now, you have stated the direct effect of a change of local rates upon through rates, can you proceed further to state effects which may be said to be indirect?

A. Well, if the local rates are reduced to a point where the railroads consider them unreasonable, therefore, unremunerative, they will attempt to recuperate their earnings by raising the through rates. For example, consider the effect in Iowa. The rate from Omaha to the Mississippi River is twenty cents per hundred pounds on syrup in carloads. Before the rates were reduced in Iowa, the same rate prevailed to Waterloo, Iowa, quite a large point. The railroad companies in Iowa have broken up their system of making through rates from Omaha based on conditions; for example, to points in Iowa which were based on conditional circumstances, and have insisted on adding the sums of the local rates together to make the through rates from Omaha to points in Iowa, so that the rates on syrup now in carloads from Omaha to Waterloo is 25 cents; made thus, 5 cents for the bridge from Omaha to Council Bluffs, and the local rate from Council Bluffs to Des Moines, plus the local rate from Des Moines to Waterloo, making a through rate of 25 cents per

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hundred, which is prohibitory to the Omaha man, because there is a similar industry located at Davenport, very close to Waterloo, where they ship at a very much less rate. Now, the railroads, in making rates where there is no friction between the transportation companies and the local or the State Board of Transportation, make rates based on conditions and circumstances.

Q. How?

A. Well, take the item of coal to Lincoln; the rate on coal from Des Moines to Omaha, 125 miles, for steam purposes, is $1.00 per ton. Now for the 55 miles further haul to Lincoln, it is only $1.15 per ton; they haul that additional 55 miles for three-fourths of a cent per hundred miles.

Q. And they have done that for the purpose of encouraging the building of manufacturing establishments in Lincoln?

A. Yes, sir. Now the building up of South Omaha as a packing point is another example of that. It is a fact that the rates on hogs and cattle to the packing houses in South Omaha to-day, considering the rate fully, are as low as the local rates on hogs and cattle in the state of Illinois and very little higher than the local rates on hogs and cattle in the state of Iowa. The condition of the hog and cattle rate is this, that the rate is made in Nebraska on so much per car, and the hogs and cattle average 19,000 pounds to the car. When they are brought to South Omaha, they pay $1.50 to the stock yards for switching the cars—that is an arbitrary. In addition to that they have a transit arrange-

ment, hogs and cattle are brought to South Omaha at the local rate, and the shipper has the privilege of selling what stock he can dispose of at South Omaha, and take what he cannot dispose of to Chicago. When the car is switched the road pays another dollar—there is $2.50 comes out of the earnings that should be taken out of the local rate. Further, if you take the rates as named in the Newberry rate bill and deduct the switching charges taken out at South Omaha the local rates would be less in Nebraska on an average on hogs and cattle per 100 per pounds than they are in Iowa, and considerably less than they are in Illinois. I was going to explain in this connection how the railroads had built up South Omaha, and the results. They made these rates on stock voluntarily, and when the stock yards were first opened the B. & M. Railroad had no access to the yards, but to encourage the enterprise they paid the Union Pacific Railroad $5.00 a car on each car of stock to get into the stock yards, and I think $3.00 a car out, in case the car went through on the through billing. The result was that through this fostering care, there is an institution at South Omaha that spends $35,000,000 annually for live stock, and the price of hogs are about as high at South Omaha as they are at Chicago. Now, these rates on live stock, and the prices paid for live stock at South Omaha, depend very largely on the interstate rates made on the coal and box material, and salt, and the rates on packing house product out, and this through billing arrangement on live stock from points in Nebraska to Chicago. At the

present time, if the rates are reduced from Kansas City on packing house product to any given point, the rates at once are correspondingly reduced at Omaha, so as to protect the business here. The box material comes from Arkansas; the rate is made the same to Omaha as Kansas City by the railroads. They ignore the additional haul of 204 miles, for the purpose of equalizing this place. Salt is hauled several hundred miles by way of Kansas City from several points in Kansas at the rate of twelve cents per hundred pounds. If the local rate on hogs in Nebraska were reduced so that they considered them unremunerative, they would probably protect themselves by making a raise on packing house product and the rate of 13 cents on box material from Arkansas to Omaha and the rates on salt and coal. In case they do this, which they could do and still keep the rates within a reasonable bound, it would damage the packing house business in South Omaha, and the price of stock would be less, where their rates have been established upon a consideration of conditions and circumstances; that is the requirements of the business. Again, the corn rates are made from points in Nebraska based somewhat on the cost of producing corn in the east part of the state, for three hundred miles west, while the rate is 19 cents per hundred pounds from Omaha to Chicago, 500 miles, there is not an increase to exceed in any instance of over seven cents per hundred pounds from points 300 miles west in the state on this article.

Q. You are speaking now of the prevalent rates on corn?

A. Yes; these rates are made with a view to making it possible for the party in the central part of the state to raise corn and get it into market in competition with the farmer in the eastern part of the state; now in the western part of the state the corn is of a low grade, and to meet the requirements there they make a rate to Denver, Colorado Springs and elsewhere, that enables those farmers in that part of the state to put their corn into western territory at a price that is very satisfactory considering that it is a very poor quality of corn, that is to say, it would not grade in the Chicago market.

Q. Well, through rates are sometimes made otherwise than by adding the locals and inter-state rates, are they not?

A. Yes, that is the case with the corn and the coal, and this packing house product, the rates apply to Lincoln as well as Omaha, and they make a rate at Lincoln that is only three cents per hundred miles higher than at Omaha to all the markets of the country. It is the conditions and the circumstances that surround the business by which they do this. In making the rates it is impossible to say on what basis they are made, because the conditions vary as applied to every distinct shipment of any class of business. The general freight agent must take into consideration the volume of the business, the density, the fragility, the commercial necessities, and competition of other roads, as well as other items.

Q. Let me call your attention to one particular matter. You have been speaking more particularly with reference to Nebraska. Will you state how the rates in Iowa on live stock destined to the South Omaha market are affected?

A. Well, I can state that by comparison. At Kansas City the rates are made from Missouri, crossing the bridge to the stockyards, on Missouri mileage tariff, without adding a bridge arbitrary. On live stock coming to South Omaha, the railroads take the Iowa distance tariff to Council Bluffs, and add to that, on east bound business $6 per car, and on west bound business $4 per car, as an arbitrary, in order to make what they consider a reasonable rate between South Omaha and points in Iowa. In the city of Omaha we have taken this subject up with the railroads and endeavored to get them to take off this heavy bridge arbitrary which exists, and they state they cannot do it, so long as the low rates exist in Iowa, because they are unreasonable and not remunerative. The result is, there is quite a disability established here on the packing houses and jobbing houses in this city on this trade immediately across the river.

Q. Now, for the sake of still further illustrating this matter, I would like you to state how the railroads make up their tariff sheets, and what considerations enter into the transaction; for instance, in order to bring the matter out pretty distinctly, take a new road building into a territory that is not populated, new territory, as this state was when

the Union Pacific was built, or when the B. & M. was built, or the Elkhorn was built, now state how the freight agent goes to work to fix up what he is to charge for transportation of freight on such a road in such a territory?

A. Well, when railroads are built through a territory where there are no competing roads that regulate their rates, they first come into competition with teams; that was so on the Atchison & Nebraska; we made rates at Tecumseh, and stations between Rulo and Lincoln as against the teaming to the Missouri River; after we reached Lincoln, we made the rate there in competition with the B. & M. In the case of the Union Pacific from here west, they made rates as against the wagon trains that had been for years hauling the freight from Kearney and points west; they considered their time and dispatch was quite an important factor in their favor, and they considered the volume of the business, and what they considered was remunerative to them, based on the amount of freight they would haul, and what earnings they would secure, in order to make a showing for the road. In this way their rates were made to Salt Lake, and there they connected with the Central Pacific, and on the through business from the Pacific Coast to the east, they made rates in competition with the steamship lines.

Q. I want to direct your attention more particularly to new territory traversed by a new road; now what does the freight agent, in making up his tariff sheet, fix arbitrarily upon the rate to be charged, upon the charge of an article?

A. So far as the tariff is concerned, he does, but so far

as his relations are concerned with the community, he does not. The tariff rate is fixed as a starting point, and when a business man comes to him and complains, and presents the facts he often modifies the rates to meet requirements. The line of the B. & M. road to Sheridan was built through northwestern Nebraska and reached Newcastle, and the Black Hills. They found coal at Newcastle, and they made rates to bring that coal to the Nebraska market in competition with the coal here coming from elsewhere; they found beds of gypsum there, and as a business proposition, parties wanted to grind it and make stucco, and bring it here in competition with stucco from other places, and they made the rate on stucco so low that it could be brought here. On cattle they make rates in competition with other feeding grounds where cattle are raised, for instance, with Texas. All these matters are taken into consideration. It is a fact, that very seldom when a business man goes to a general freight officer of a railroad company and presents the condition of his business, it is very seldom that an arrangement is not arrived at amicable and just to both parties.

Q. You say the tariff sheet is constructed by the freight agent arbitrarily; a tariff sheet, I suppose is a statement in condensed form of the rates previously established or contemplated, is it not?

A. Yes, sir. Well, we will take the line built from the Mississippi River across to the Missouri River in the early days before the time the Union Pacific was built; they made rate to Omaha in competition with steamboats,

so that the Rock Island, C. B. & Q. and Northwestern took the steamboat rates as a basis and then graded their rates back to the Mississippi River. As the Burlington passed through the state, when it found a factory, or a coal bed, or the possibility of a packing house, it made its rates conform to the requirements of the case, and these were called commodity rates; their idea was to build up the industries and develop business wherever they found it.

Q. What was their object in doing that with reference to their own interest?

A. Well, it was a mutual affair; it is to their interest to have a place prosper and build up interests on their line, it makes revenue for them; at the same time, they must reduce their rate to where the business will make something for the promoter; they practically run the business together. Now, the effect of a maximum rate law, that the roads consider unreasonable, is that all these close relations are wiped out between these business communities and the railroads, and an iron rule in making rates is established, as in the State of Iowa. To the business man it makes the law obnoxious, because his very desirable relations are disturbed, and it is impossible for him to go to the transportation companies and make the arrangements he had prior to that time, and state his case, and get a fair, reasonable rate based on the circumstances and conditions surrounding his business.

Q. Take a road that is built through a territory where it is well settled and where there is already another road or

other roads, when the freight agent fixes his rates on the new road, what conditions does he take account of?

A. That is a case where competition is taken into consideration; take a railroad like the Rock Island built from Omaha to Jansen. They put into effect on that road the local distance tariff used by other roads in the state; they make the rate to Lincoln the same as other lines have in effect; from Omaha, from St. Paul and Mississippi River points, Chicago and the east they make the same rates, and from Florida and Louisiana, and California and Colorado; in fact they put in the sames rates unless there is something whe the physical conditions of the road make an objectionable feature. Now when their line reaches Wilbur, the crossing of the B. & M., they do the same thing; they had already reached Jansen, and the rates are fixed there. If the rate from Omaha to Jansen was 40 cents, and to Wilber 30 cents, it would be graded, reducing it 10 cents from Jansen back to Wilber. Now, in the case of the Rock Island road to Texas; they have a direct line to Texas, and there is considerable difficulty about those rates, because they are a direct line, and their physical condition has justified them in making a stronger bid for Texas business, and the rate question is unsettled now.

Q. Then I understand you the rates are not the work of the agent, but are the result of the operation of a great many other features outside of him, and outside of anything he might be disposed to do?

A. Yes, it is altogether so; of course, locally, there

are matters he can control. Now, take the case of a local stone quarry, or a local sand pit, or a brick yard, or a flouring mill, or a factory, where there is a long haul, for example to Omaha, as against a similar class of business located near Omaha on some other line. The business man at those points goes to the general freight agent, and says, we will have to send our stone to Omaha, 100 miles, as against Cedar Creek, 30 miles, the rate not being the same, we are shut out of the business. The general agent reduces the rate from the quarry on his line, and builds up the quarry or sand pit, or whetever it might be; that is done in about all cases.

Q. What would be done, what would become of those enterprises in remote parts if this were not the case?

A. They could not be operated; the freight rate would absorb all the margin there was in the business.

Q. Does that principle run all through the entire system of making rates and doing a railroad business?

A. Yes, entirely. Take California, with its market of fruit, vegetables, wines and sugar. These commodity rates exist on this entire business in all that piece of territory, and permit the grower and manufacturer in that vast territory to reach this market. In case of oranges in southern California, they have to take into consideration what they are from Florida, and in the case of sugar it must be taken into consideration what the cost of manufacturing is at New Orleans, and Boston, and Philadelphia, and New York, where the refineries are established. All those things

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are taken into consideration. The same reason applies to nuts and raisins, and canned goods, and liquors, and vegetables, and fruits.

Q. Then I understand you that these products, such as you have spoken of in California, on these the freight agent would take into consideration the market price of that article in the great markets, such as Chicago, New York and Liverpool, and so on?

A. Yes, and finally make a rate that would permit the party making the shipments, would make a rate low enough to allow him to have a market for his business, so as to enable him to conduct it with profit.

Q. Corn goes to Chicago from a great many different places, many of them very remote from that city. Now, how is the price of corn at one of those places affected; is it affected by a consideration of the price in the Chicago market?

A. The rate is made to conform with the market. For example, the rate on corn from any point in Nebraska to St. Louis, Missouri, is five cents per hundred miles less than to Chicago, although the distance is more. They do that for the purpose of giving the dealer in Nebraska the advantage of the St. Louis market; there is considerable corn goes there, and if the Nebraska dealer had to pay the same rate to St. Louis he did to Chicago, he would be shut out of that market, and the grain would be supplied from Missouri, Illinois and other points.

Q. But a common price is taken into consideration, is

it not, in the great markets, such as St. Louis, Chicago, and New York, on the one side, and the points of product, such as, for instance, Grand Island and Hastings, and Alliance, if they do raise any corn there, on the other, is that not so?

A. Well the price is the same to the shipper in Nebraska, because the rate is higher or lower, based on the price at the market he ships to.

Q. There is one general market price for all those articles everywhere?

A. Yes; that is to say it is not the same price.

Q. Is it not substantially the same?

A. You mean the same price at different points?

Q. Yes, take for instance, Chicago and New York, of course, to the Chicago price is to be added the rate to New York, is it not?

Yes, sir.

Q. Otherwise the price in the two places is nearly the same?

A. The Chicago market is regulated by the New York and foreign market; the St. Louis is regulated by that consideration, and at the same time it is regulated by the southern market. That is another factor in connection with St. Louis they don't have at Chicago. New Orleans is at present the third exporting point in the United States, and because it is drawing a large amount of grain to that seaport, it is a feature in favor of St. Louis.

Q. How do the prices in New Orleans compare with those in New York?

A. They are a little less in New Orleans than in New York.

Q. Why?

A. New York has better exporting facilities, there are more steamers coming in for freight and more competition.

Q. That is to say the rate from New York to Liverpool is less than it is from New Orleans?

A. Yes, sir.

Q. And otherwise the rates are about the same in the two places?

A. Yes, the Missouri Pacific runs to New Orleans, and what they do is to go and make a rate that will equalize the different markets; they propose to make a rate that will take Nebraska corn to that market.

Q. That is done by them in order to get the business over their line?

A. Yes, the theory on which the road was built is that they build railroads into New Orleans, Louisiana, Arkansas and Texas, and ship the lumber and rice, and syrup, and sugar and cotton of that territory to Nebraska, and in return load the same cars back with corn and packing house product, making loads both ways; that has been a good thing for Nebraska; for the reason, they have brought lumber here, they have made a low rate of from 13 to 22 cents per 100 pounds, and although the haul is a long one, the price is less in Lincoln on lumber as a result, now, than it is in

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Des Moines, or Moline, or Rock Island, places where the saw-mills are located; they have revolutionized the lumber business in this state, by driving out the white pine of the north.

Q. The freight agent took into consideration all these circumstances?

A. Yes; it was the theory on which the road was built; then they come in competition with white pine they cut the rates still lower and insist on taking the lumber business.

Q. That is true largely of every road, is it not?

A. Yes, sir; to a great extent.

Q. That is the great principle upon which railroads are built and exist?

A. Yes, that is the competition feature of railroading; it is demonstrated in the rates from Omaha to Colorado; they are only half now what they were eight years ago; a year ago they were reduced one-third; this condition gradually works the rates down, competition and volume of business. It is done by the freight agent coming into contact with the general business interests and making rates in which the commercial necessities and the competition are both large factors.

Q. Railroad rates, then, may be said to be regulated by the great law of supply and demand, are they not?

A. Yes, sir; largely.

Q. That is the solution of the whole railroad problem?

A. Yes; I believe it it is; taking it in a broad sense.

Q. And that principle ramifies the whole system of

making rates on all railroads and on all articles that have to be carried?

A. Yes, sir; if you wipe that out, the principle of making rates, which you do by establishing arbitrary rates which are unreasonable, there is a very bad state of affairs between the people and the railroad companies, because their basis of making rates is destroyed.

Q. That basis of making rates arbitrarily maintains in very exceptional cases, does it not?

A. Yes, sir.

Q. I mean, in point of fact; I am speaking of the manner in which railroads and railroad freight agents make rates, the matter of making arbitrary rates is very exceptional, is it not?

A. They do not do it; they are always substantially modified, based on the questions that arise; there is not a fixed rate made by any freight agent that he holds to for any length of time; as conditions change, he modifies the rate, generally reducing it; that is the reason the tendency of railroad rates is downward.

Q. The increase of business?

A. The volume of business and the conditions bring it about.

Q. What do you understand by the term "reasonable maximum freight rates" as referred to in the state control of railroads, and as practically applied by the railroads to shipments?

A. I think it means that the maximum rates should be

so high that the railroad officials can make commodity rate and lower rates, based on the requirements, the condition and circumstances, and still have them remunerative. I they are so that they cannot do this, they are unreasonabl and not subject to any change or modification, by virtue o their being so low.

Q. You have spoken of commodity rates, I wish you would explain that word a little more fully, so that we ca understand it?

A. Well, I might explain it in connection with th paper mill I operated at Lincoln for the last four years. I manufacturing paper, when we commenced four years ag the price of paper in Nebraska was $30 a ton; competition re duced the price to $20 per ton; the necessary items to manu facture paper are coal, lime and straw, and the shipment of the product. The cost is regulated by the rates made on straw to be shipped in, and coal rates that are in effect, and rates on the product to Kansas City, St. Joe, Atchison and Leavenworth, and Sioux City, and on lime from Weeping Water to Lincoln, and we were able to compete with other mills, because these commodity rates were made to aid us. If the railroads would not have given us these commodity rates we would have been compelled to close the mill; the result would have been we would have lost the money in- vested, and the price of paper would have gone up over the state. That is an example of commodity rates. They meet the demands of the manufacturer as his conditions change, and enable him to conduct his business, shipping over their

road, and at the same time make some profit in keeping his goods in the market and benefiting the consumer as well.

Q. Then commodity rates are rates on those commodities which are transported in large quantities and used mainly in manufactures, are they not?

A. Yes; to a considerable extent; the corn rates from Nebraska to Chicago are commodity rates. The rates on lumber from Texas to Kansas City and Omaha are commodity rates; the low rates on coal from Iowa to points in Nebraska are commodity rates.

Q. You have repeatedly used the term conditions and circumstances; explain what you mean by those words in the matter of making rates?

A. The conditions and circumstances in making freight rates are so numerous it is difficult to mention them all, but I believe I did state the density of the freight, the volume of the freight, the perishable qualities of the freight, and the commercial necessities, and competition with other railroads, or all conditions and circumstances that go to the making up the rates on freight; also the cost of production is another factor, of goods at a factory. The cost of production of corn on a farm, or of hogs, are all conditions that go to help make the rates.

Q. Well, there are a thousand other conditions besides those you have mentioned that the freight agent takes account of, are there not?

A. If the freight agent meets a hundred shippers a day, each man has a number of conditions he enumerates

that vary from what another man states, that goes to make up the rates. There are never two persons have the same reasons. If there were fifty thousand business men they would each have a different statement.

Q. Each man would not only make different statements, but he would have different conditions, would he not?

A. Different statements based on facts which are closely investigated, and the rates made accordingly.

Q. You have frequently used the expression of discrimination, and equality of rates, tell us what you mean by that, and illustrate how discrimination is made, and what is meant by equality of rates?

A. As applied to Omaha, for example, the shipper and manufacturer in Omaha wants to buy goods and re-ship them, and reach the selling point as low as any other shipping point. If he buys sugar in San Francisco, Boston or New York, and ships it to Omaha, and re-ships it west, he wants to buy it on an equal rate with the St. Joe or Atchison or Leavenworth shipper. Sugar is handled on a close margin; on sugar and salt, like bar iron, a very few cents difference in the rate with the Omaha man, that discriminates against him in favor of the St. Joe man, would drive him out of the market. . Our interests demand rates as low from Omaha as any other point in our territory, and that is so of all points, then the rates are equalized with any other given territory. The question here, is not how high or how low the rates are within themselves, but the question is, is it a rate that equalizes Omaha with other points.

Q. And a rate that enables the shipper to sell as low here as the shipper does in St. Joe and other towns?

A. Yes; McCord, Brady & Co. will send a traveling man to Superior and he will find a man there from St. Joe and Kansas City, and if the St. Joe man has a better rate in and out than the Omaha man, he can sell the goods lower, and the Omaha man will have to abandon the business. The same, if Wilhelmy, Rector & Co. would send a man there and if he will find a man there that has a better rate on nails at those places than he has here in Omaha, they will have to abandon the business.

Q. By the rate in, and the out rate, you mean the rate in and out of Kansas City?

A. Yes; a rate in and out of Kansas City; if they have a less rate at Kansas City than at Omaha, in and out, the Omaha man has to abandon the trade.

Q. And prices of merchandise differ as furnished from jobbing points, largely on account of difference in rates, do they not?

A. The freight in and out makes the dealers' prices, allowing them a small margin of profit for conducting the business; if the freight is so high as to wipe out the margin, he abandons the trade and complains of a discrimination in rates as the reason for it.

Q. Now, you have suggested an illustration of an idea which has been, perhaps, already sufficiently developed, but but I would like to call your attention to it again. You have spoken of the merchant in Omaha buying sugar in San Fran-

cisco and New Orleans, New York, Philadelphia and Boston; now he finds substantially the same price ruling in all of these places, for the same grade of sugar?

A. The price of sugar is based on conditions and circumstances. Most of the sugar in New Orleans comes from Cuba; when the crude sugar is thrown on the market the refinery at New Orleans has a surplus. When the crude sugar comes from the Sandwich Islands there would be a large amount in San Francisco, and at that time sugar would not be in the market at New Orleans, and if there is a large amount in San Francisco they put the price down a little at that point, and there being a short supply in New Orleans, the New Orleans refinery does not compete, and the San Francisco man sells the sugar; so that every day the jobber here will communicate with different brokers and see how prices stand, and buys of the one that has the lowest price; the price is based on the supply of sugar at the refineries, which varies at different times of the year according to location.

Q. Does the freight agent follow those changes?

A. He does not in the price of sugar, because they vary so much. He simply establishes in a general way what protects them. The matter is discussed for a long term of years before the rates equalizing points is formulated, and after the price is arrived at, those rates stand firm.

Q. And the rates from San Francisco to Omaha, and from New Orleans to Omaha, and from New York to Omaha, are all related one to another?

A. The rates from San Francisco to Omaha have stood firm for a number of years; those from New York to Omaha vary some. The rates are pretty firm from New Orleans, but there are so many different routes from the Atlantic seaboard here that the rates vary. There is the canal and lake and rail route; there is the all rail route, then there are the roads running through Canada, which are short of business and cut the rate to get the business, and these things cause the rates to go up and down somewhat.

Q. Nevertheless, they are in a general way affected by the price?

A. Yes, they are established in a general way on the price; the direct rail lines charge certain rates, and the canal lines charge a little lower, because they are slower; those rates are based on time altogether. There is some disability in their handling the goods. If they ship a car on the rail route they are handled but once in New York; if they are shipped from New York via the canal, they are handled by the canal, and then from the canal to the steamer, and from the steamer to the railroad in Chicago, and when the freight arrives here many packages are damaged, and they overcome these defects by lowering the rate to meet all rail rates; the all rail route is the basing line for the rate, and the rate is made against the all rail rates from New Orleans and San Francisco. The price and the cost of sugar at the different points is taken into consideration.

Q. You speak of the through lines to Omaha and from New York, I want you to explain the difference in the practi-

cal operation of the railroads in the operation of local freight rates and long lines, through lines?

A. In this state the Union Pacific road has an immense through business over their main line; they haul several hundred cars of through freight daily through this state. This freight is not handled in and out of the cars by the Union Pacific Company, it is through freight going beyond Ogden; the way-bills are made out at points beyond the Union Pacific termini. The Union Pacific freight is loaded at Chicago and east, and the cars sealed and sent through, and the Union Pacific rushes it through from Omaha to Ogden, at the rate of twenty to forty miles an hour. These cars are all heavily loaded, because they are to go long distances, and they will average heavy; the local freight trains run shorter distances and the freight is loaded light; the freight is loaded into the cars at and way-billed out of Omaha; it is received at Omaha, and checked out on the platform first, and a receipt given for it, and then loaded into cars to go to different towns in the state; the way-bills are made out, and the cars are put into local freight trains that go out to the different towns, and the cars are loaded light, because at the platform in Omaha they have to set different cars from different divisions, and the tonnage varies, but the cars have to go forward, no difference how small the business is; they have to send the cars out every night, because the business is largely competitive, and they have to clean the yards of these cars every night. When a local freight train is made up it has these light loads, and starts out with them,

and passes through the country at the rate of eight miles an hour, and usually, when the car reaches the last point it has no freight in at all; the average car of small local merchandise does not exceed five tons at the starting point, and is exhausted at the last point, therefore, at a middle point it does not contain over two and one-half tons, since the average load is not to exceed that. Local freight in Nebraska is composed almost entirely of small lots of goods, and live stock and hay; the distributing points are Omaha, Fremont, Lincoln and Nebraska City; outside of these four points there is practically little local business in the state; the local freight goes out on the road on a schedule time of ten miles an hour, and spends more time in switching at stations than is spent running between stations; when they arrive at a station they unload merchandise, check it out of the cars on to the platform, then they set in cars of lumber, or cars of coal, and switch out empties, and set cars to elevators, and keep out of the way of through freight trains, and sometimes consume several hours in switching; frequently take cars and switch them several times, changing location of cars and setting cars out, and performing the regular train services at stations. The result is local freight trains as a rule run late, there is scarcely a day in the week where a local train is on time; a local freight train requires three brakemen and a through freight two, the average time of local freight is eight miles an hour, and twenty miles for through freight. When the local train starts out it is an ordinary train of

merchandise, with an average of five tons to each car; it distributes this, and when it reaches its destination has empty cars, and the average tonnage of local trains is not to exceed one-fourth of the tonnage of through trains. As they come back they are loaded with empty cars and live stock. A train starting from Grand Island would expect to reach Omaha with live stock and empties; they would pick up one car at one station, two at another, and two at another, and get in here with twenty-five cars of stock; they have to leave the empties at the station and then take out the stock, and then they have to set these empty cars to elevators, and switch cars of lumber to lumber yards and cars of coal to coal yards. The freight train is entirely under the control of the local agent at the station, and must do what he says in handling cars. A through freight train running over the Union Pacific Railroad is always filled to its utmost capacity with heavy loads; they can always command full trains, because there is a low class of freight that does not require promptness and dispatch that can be used to fill up trains. The consumption of coal on a local train is greater than on through trains, and the wear and tear is greater than it is on through freight, because the principal expense occurs in stopping and starting, and a local freight train may switch forty times at one station, while a through train from Omaha to Grand Island would run through without a single stop. My judgment is that local freight in Nebraska is quite different from local freight in Iowa, for the reason that the cars of

local freight that are handled locally in this state comprise a class of business that are loaded lightly, live stock on an average is 19,000 pounds; the average car of local merchandise has two and one-half tons, when you consider that they start out with five tons and stop without any load. On hay they are never able to load to exceed eight tons; in Iowa the largest items of local business is lumber, coal and grain; any average carload of coal has twenty tons; the average carload of lumber has fifteen tons; the average carload of grain is seventeen and one-half tons. The average tonnage on through business in the State of Nebraska is fifteen tons to the car; the average tonnage on local business in the State of Nebraska does not exceed seven tons to the car. There is another disability connected with the local business in this state as compared with Iowa and Illinois, and that is the question of empty cars. In hauling live stock in Iowa or Illinois, the stock car can be loaded with coal or lumber with a return load. In this state the stock car has got to be returned empty from South Omaha, or Nebraska City, or Lincoln, because there is no coal or lumber to load into it. The reason is the coal and lumber in this state is all handled on the inter-state rate; the lumber that comes into Nebraska comes over the Missouri Pacific road and south; comes in foreign cars. Consider again, that a carload of hogs and cattle, the car itself weighs 20,0000 and the freight only 19,000 pounds, it is a considerable item. In the state of Iowa consider that a car would be loaded with coal and lumber instead of being hauled back

442 empty. Again, coal cars are shipped from Iowa points to Mississippi River points and are loaded back with lumber. You will see in Iowa coal cars loaded with lumber; you will not see that here, because there is no lumber to fill the car with. A car in Iowa is loaded with coal or lumber, and in Nebraska is hauled back the entire distance empty. In connection with the coal business in this state there is another item, and that is particularly on the local trains, is the amount of fuel. The fuel that the Missouri Pacific uses is hauled from points in southern Missouri, very largely from Pittsburg and Rich Hill; the average haul on the Hastings branch is 475 miles from the coal mine; to Omaha the distance is 350 miles from the coal mine. The coal used on the Elkhorn is hauled from What Cheer and Muchachinock, Iowa, to the Missouri River, a distance of 300 miles, and from points on the Elkhorn to Nebraska points, a distance of 500 miles. The coal on the Union Pacific is brought 700 miles from Rock Springs. The coal used on the Grand Island Road in Nebraska comes from Rock Springs; the coal used on the Chicago & Rock Island in Nebraska comes from Des Moines and east; it is fair to assume that there is an average haul of 300 miles on coal for consumption in the State of Nebraska in excess of what the haul is in Iowa and Illinois, because there is not a railroad in Illinois, scarcely, but what has coal mines on its entire length. In the State of Iowa the Wabash into Des Moines, the C. B. & Q., the Chicago & Northwestern, the Chicago & Rock Island, the Illinois

Central, the Chicago & Great Western, the Central of Iowa, the Burlington, Cedar Rapids & Northern, and the Mason City & Ft. Dodge, all have extensive coal lands along their line. Based on these figures, and assuming that there is the additional haul of 300 miles, and it costs half a cent per mile to haul the coal, there is a disability of $1.50 a ton to a railroad in Nebraska as against a railroad in Iowa or Illinois, or Missouri; Missouri also has plenty of coal mines.

Another feature of the coal business, increasing the cost to the Nebraska road—several small features, are these: That where coal is hauled a long distance there is a considerable percentage of shrinkage by evaporation, and by the coal being blown away, and it is lump coal, and coal is high, and there is always at all stations a large amount of pilfering. Again, the coal that is shipped in Nebraska, outside of the Rock Springs coal, the longer it is in transit or in store, the less units of heat it has, because any exposure to the air makes a slow combustion continually take place, and after it has been exposed a short time it goes to pieces. The steam coal loses from twenty-five per cent. of its units of heat in thirty days, and if left in a building two months, it takes fire by spontaneous combustion, indicating that there is a disability to roads in Nebraska, on account of the slow combustion taking place in coal the longer it is in transit, or in a building; also the railroads are compelled to keep more coal in store in Nebraska than they are in Iowa or Illinois; they have to provide for emergencies; there are frequent snow blizzards or washouts, that the

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coal supply being to far away from the point of use, that unless there is considerable coal on hand they may not be able to run their trains. Therefore, there is not only a loss by virtue of the decrease in the value of the coal, but also, there is more money invested in the additional amount; also there is a long haul on the empty coal cars, so that in estimating that it costs $1.50 a ton more to the railroads in Nebraska for their coal than it does in the neighboring states east of us, the estimate is certainly not too high. The roads in this state use about 700,000 tons of coal annually.

Q. In that connection, let me call your attention to the volume of the business in the two states, comparatively, and to the pop ulation per mile of railroad; what have you to say to that?

A. That is a fact. In this state there are about one hundred and ninety people to the mile of railroad; in Iowa, two hundred and thirty and in Illinois, three hundred and thirty. Now the earnings of the railroads in Iowa are usually in excess of the earnings in Nebraska; take, for example, the Northwestern system; they earn, in round numbers, in Iowa on the Northwestern railroad, $5,000 per mile, and the Fremont, Elkhorn & Missouri Valley earns $2,200 per mile.

By Mr. Webster:

Q. You are testifying what is taken from a report?

A. Yes, sir.

By Mr. Webster:

I object to this witness proceeding to make mere arguments as he has done here for the last hour, and stating

conclusions which are based upon books or documents, or statements which are not in evidence, and could be just as well established by putting the books in evidence, and which books would not be evidence.

Witness continues:

The Fremont, Elkhorn & Missouri Valley Railroad, which is represented by the Northwestern interests, $2,200, in the State of Nebraska per mile.

By Mr. Woolworth:

Q. Can you state what it is in Illinois?

A. I think it is $8,500 on the Northwestern, that is the freight earnings. I was going to state the connection, or the conclusion about the local business, that on the main lines in the State of Nebraska, it costs six times more to haul a ton of freight a mile, locally, than it does a ton of freight on through business, and I draw that conclusion from the figures I have named here in this evidence. That is, the speed of through trains, twenty miles per hour, as compared with the speed of local trains, eight miles per hour, the cost of fuel on local trains as compared with through trains, the cost of repairs on local trains as compared with through trains, the distance of twenty miles run by through trains as compared with eight miles run by local trains; the average small tonnage in the way-freight trains in the State of Nebraska as compared with the heavy tonnage on through trains, being one fourth; the possibility of personal injury being greater on local trains, and the large volume of through business as compared with the small vol-

ume of local business, and the disability of hauling so many empty cars in the State of Nebraska on local business as compared with the cars on through trains, through cars being loaded both ways, and the physical conditions that surround Nebraska is a factor, also, by reason of the local business being comprised almost entirely of hay, live stock and merchandise, which is light load freight.

Q. What has been the experience of railroads in this state which have been confined to local business?

A. They have not been able to pay out on expenses, not in a single instance.

Q. You say you were on the Atchison & Nebraska Railroad, tell what occurred on that road?

A. I was connected with the road from 1871 to 1879, and it never paid its operating expenses and never paid a cent on the investment; at one time we hauled through business for a couple of years and made a fair showing on earnings, but the rest of the time the business was an absolute failure.

Q. How was that through business gotten?

A. It was in consequence of the Missouri Pacific Road and the B. & M. and the Union Pacific forming a through line on through business, of which we received thirty or forty loads of freight each way daily of through business; there was comparatively little expense on through business; because on local business we were compelled to maintain station agents and depots, etc., and when the through business was given to us we hauled thirty or forty cars each way

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daily, and the only additional expense was a conductor and two brakemen, and locomotive and engineer; we didn't handle the freight on our road in or out, except in cars, simply handled the trains; did no waybilling.

Q. When that through line over the A. & N. was broken up what became of the road?

A. It was finally absorbed by the C. B. & Q. Road, and they have operated it since.

Q. And you say that the road was not able to earn enough to support itself?

A. No, sir; it was not.

Q. How is it now as operated by the B. & M. System?

A. It is a magnificent system, and the fastest train in the passenger service in the State of Nebraska is running over the whole length of that road.

Q. Then you don't think that the charter of that road ought to be forfeited because it is incorporated in the C. B. & Q. System?

A. No, sir; I do not.

Q. Well, mention some other local road in this state which has had the same experience?

A. Well, the Nebraska railway, built by Dr. Converse, from Brownville to Nebraska City, and from Nebraska City through Lincoln to York; the parties that built the road lost nearly all the capital they put into it; the road was in miserable condition, not paying operating expenses, and was finally sold out for a very small sum; the latest example of it

is the Wyandotte & Northwestern; the road was built for the purpose of doing local business into Kansas City, and while it was built through a good agricultural country, where there was comparatively good local business, it passed through the hands of a Receiver and has been sold out. In the State of Iowa the local roads have all passed through the hands of a Receiver, the Central of Iowa, the Burlington, Cedar Rapids & Northern, and several others.

Q. Is there pending now in Iowa a controversy, one side of which is the local roads, with reference to rates?

Objected to as irrelevant and immaterial.

A. It has been recognized by through lines that local railroads could not exist on these legitimate earnings, so that they have assisted them by giving them unusual per centages on what through business they had, in order to maintain them and keep them in operation. In the State of Iowa, for example, the trunk lines running to Chicago gave several small lines fifty per cent. of the through rate; the through line would haul the freight over 350 miles and the small line would haul the freight fifty miles, but the small line would get fifty per cent of the revenue. This was necessary to maintain and allow them to exist. Since the railroads have been suffering by virtue of the maximum rates put into effect by the State Board of Iowa, they have notified these short lines that they could not allow them such a large per cent., that they must earn more money on Iowa business, that they must reduce their per centage from fifty to twenty-five.

Q. The through roads must reduce their allowance to the small roads from fifty to twenty-five per cent.?

A. Yes, sir; the small roads have said with one voice, that if this was done they would be annihilated, and they have gone to the state board with a view of having them advance the local rates, so they could earn more money on their business, and possibly be able to maintain themselves. The railroads that have done this are the Des Moines & Ft. Dodge, the Winona & Southwestern, the Des Moines & Northern and the Keokuk & Western, the St. Louis & Omaha, and some other short lines.

Q. Is any extra allowance made by the eastern railroads to the Nebraska railroads?

A. Yes; there is the same state of affairs in Nebraska that there is in Iowa. The Union Pacific Railroad, for example on business from Fremont, Wahoo, and Lincoln get forty-five per cent. of the through rate between these points named and Chicago. For example, if the rate on corn was 22 cents from Fremont to Chicago, the Union Pacific would get 9.9 cents, and the Rock Island or Milwaukee & St. Paul would get the other remaining fifty-five per cent. of the rate which is 12.1 cents, and 12.1 cents and 9.9 cents is 22 cents. As the Union Pacific extended westward, their percentage increased, so that in the western part of the state they get sixty per cent. of the through rate, and the lines between Council Bluffs and Chicago get forty per cent. of the through rate. The same system of percentages applies to the Fremont, Elkhorn

& Missouri Valley and the Northwestern Railroad, and the Burlington & Missouri, and the Chicago, Burlington & Quincy, by which the railroads in Nebraska are given the largest constructive mileage in making per cents. on through rates, and the reason of that is this, the railroads in Nebraska have not the earning power to maintain themselves unless they are allowed more favorable conditions than would be allowed them, provided the railroads took the existing rates between the Missouri River and Chicago as their portion of the through rate.

Adjourned until 2:00 p. m.

OMAHA, Friday, Dec. 22, 1893, 2 p. m.

The further taking of testimony was resumed as follows, continuation of direct examination of John E. Utt, viz:

Q. In 1887, did the board of transportation and the railroad companies have a consultation together as to the reduction of the rates then being charged by the companies for local freight?

A. There was a serious discussion for a considerable period between the railroads and the state board of Nebraska, and it resulted in a compromise; the complaints originated with the Lincoln Board of Trade; we were contending for lower interstate rates, and could not get them, so we made complaint on the local rates, and secured a decision against the Elkhorn railroad; the railroads and

the state board finally got together and after considerable discussion, they arrived at an adjustment of the rates. The basis of the adjustment was that on commodities that were of particular interest to the farmer the rates should be reduced, and also some reduction was made on classes, mostly on the higher classes. It was understood at the time that if the railroads made these concessions it should end for a considerable length of time the controversy between the state board and the railroads, and after it was entered into they were supposed to be on good terms, and there was no cause for complaint on the part of the board or the people against the roads. The reductions made were on live stock, hay, stone, sand, brick, lime, lumber and coal. The through rates that were reduced were on live stock, and grain, and coal — mostly on grain. The basis that was arrived at was the present grain rates and the present coal rates. At that time the railroads put these low rates on coal in effect from Iowa and elsewhere to points in Nebraska, in which, for example, the rate was only three-fourths of a cent above the Omaha rate to Lincoln. Immediately after that the railroads also adjusted the other rates regarding which the Lincoln people had controversies, and the railroads and the people have always been on good terms until August of this year, when the railroads tried to conform their rates to the Newberry bill, which involved a change at Lincoln, and the business interests of Lincoln got out an injunction, which has since been dismissed, I believe.

452 Q. The railroad companies kept the rates since 1887, as low as agreed upon in that arrangement?

A. Yes; and in many cases lower, but in no case higher, so far as I know. I know about all there is of it. I think I am thoroughly versed about all those rates, and I do not know of a single advance in them. The fact is, the live stock rates have been reduced considerable since that time, to Chicago particularly. The grain rates were for quite a time lower, but have been restored back to that basis; the price of corn was very low, and they put it down, and after a time restored it to the same basis. But the theory of Judge Mason, who was at the head of the state board at that time, was that the reductions should be made on building material, and articles produced by the farmer, so that was the class in the state that should have the best use of it, so they put it down on live stock, and corn, and grain, and building material, lumber.

Q. Mr. Utt, is it practicable to operate a railroad under two different sets of classifications, one a through, and one a local?

A. The tendency of having different classifications is to demoralize and disarrange business. A jobber and manufacturer to-day that ships all over the country must be thoroughly versed in the different rates. If every state has a different classification, and there is an inter-state classification, it makes it impossible for him to know about his business arrangements, in this respect, because it is too diversified; it is the theory of all railroad men and persons

doing business to arrive as rapidly as possible at a uniform classification, and that is what the inter-state board is threatening now, a uniform classification, so as to get rid of these diversified classifications. You cannot make a local classification without affecting an inter-state classification for the reason that the inter-state rate must be added to the local rates plus the classification.

Q. It is practically impossible, is it not, to do business with two sets of classifications?

A. As a business proposition it is an exceedingly difficult thing to do.

Q. Are you acquainted with the lines of the Rock Island in this state?

A. Yes, sir.

Q. Describe them?

A. That is the physical condition of the Rock Island in this state?

Q. Yes, sir.

A. The entire system?

Q. Yes.

A. The Rock Island was constructed in this state several years from Beatrice to Fairbury, running west through Belleville to Colorado Springs, later, within the last two years the Rock Island built a line from Omaha to Lincoln, and within the last year opened up a line from Lincoln to Jansen, the distance is about 121 miles from Omaha to Jansen; it was a line for the purpose of making a more direct line from Chicago to Colorado, as against their road

by way of St. Joe. They constructed their line in first class condition, has a better road bed, and better bridges than any other line in the state; they expended in Lincoln alone a half million of dollars; their line is heavily ballasted, heavy rails, and good bridges, and is doing quite a large freight and passenger business.

Q. How does it get from Council Bluffs to its line to Lincoln?

A. They have leased the Union Pacific facilities from Council Bluffs to South Omaha, on an annual rental for ninety-nine years, and they built a line from South Omaha to Lincoln, and later, built from Lincoln to Jansen so as to make a short line.

Q. With what other railroad is that in direct competition?

A. It is in competition with the Missouri Pacific Railroad from here to Louisville, and to Lincoln with the Fremont, Elkhorn & Missouri Valley and the Union Pacific and Burlington & Missouri River, and it is also in in competition with the Union Pacific and Burlington & Missouri River as far as Wilber, from Wilber it is in competition with the Burlington & Missouri River only to Jansen, from there west they are in competition with the St. Joe & Grand Island and Burlington & Missouri River.

Q. They run through substantially the same country as the other roads, do they?

A. Yes, the best part of the state, the oldest settled part. The line from here to Jansen is directly through the

best part of the state, and the roads on many of these lines named run very close together.

Q. How do its facilities for doing business compare with those of any other companies?

A. They are superior to any other company's, unless it is the B. & M., because they are a shorter line, and their equipment is unsurpassed, and they have a good track; the distance is the same to Lincoln as the B. & M., and to Jansen it is the shortest line. At intermediate points they pass through the same territory; they are a shorter line to that territory from Lincoln and from Omaha than either one of the other companies.

Q. Can you tell the difference between the cost of passenger and freight business?

A. I cannot state definitely what the difference would be, so far as the expense of operating the two would be concerned; no, I do not believe that I could say that I could.

Q. What is the current rate of interest on money in this state per annum?

A. In Omaha it is eight per cent.; for the rest of the state it is ten per cent.; in Lincoln the established rate of interest is ten per cent.; money is not loaned for less than that at the banks.

CROSS-EXAMINATION.

By Mr. Webster:

Q. When was it that you became employed by the Commercial Club of Omaha?

A. In May.

Q. Of the present year?

A. Yes, sir.

Q. Now, that club does not own and operate railroads?

A. No, sir; it does not.

Q. That is simply a club made up of merchants and business men of Omaha?

A. Yes, sir.

Q. And your position of commissioner is that of an employee of this club, to look out for freight rates in its interest?

A. Yes; particularly freight rates.

Q. And the interest of that club is to obtain rates favorable to Omaha as against all other competing points?

A. Yes, sir.

Q. So that it is your business to work in favor of Omaha as against other competing points, is it not?

A. That is one feature of it.

Q. Is that not its proclaimed and only feature?

A. No, sir.

Q. Was not that the understanding when that club was organized; did you hear the constitution and by-laws read?

A. No, sir.

Q. Then you know nothing about its declared purposes?

A. No, sir; I have read the constitution and heard it discussed.

Q. Is it not its declared purpose all the time to obtain rates for Omaha, so that the merchants of Omaha could ship out goods at as favorable a rate as competing points?

A. That is one of the features of the club, but there are other features in addition to that; that is not the sole feature.

Q. Is not that its sole feature with reference to railway rates?

A. No, sir; it is not; we would like to encourage the building of railroads; we would like to get railroads into Nebraska territory that is not occupied by railroads.

Q. That does not relate to rates?

A. It might.

Q. It has nothing to do with the present rates which you are now trying to obtain from the railroads, has it?

A. No, sir.

Q. I am asking you about what your duty now is with reference to obtaining rates at this time from railroads now existing, in favor of Omaha against competing points?

A. Yes; that is all right; I am willing to admit that, but we are trying now to get a railroad to Duluth.

Q. That is all in the future?

A. Yes; but we are trying to get it now.

Q. It has nothing to do with shipping goods to Denver or other places?

A. That is part of my business.

Q. I am speaking with reference to your business so far as rates are concerned?

A. What is your proposition?

Q. Is not what I stated correct, that your business is to obtain rates favorable to Omaha merchants as against other competing points?

A. Well, that is a part of my business; yes, sir.

Q. Now, before you became employed as commissioner of this club, where had you been employed, prior to that, and in what capacity?

A. By whom?

Q. I don't care by whom, I am asking you?

A. I was vice president of the Buckstaff Manufacturing Co.

Q. What sort of business was that?

A. Vitrified brick plant, paper mill; handled saddlery and leather.

Q. Then while you were running that you were not running railroads?

A. No, sir.

Q. When was the last time you had any railroad experience, or rather the first time?

A. 1871.

Q. What road?

A. Atchison & Nebraska.

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Q. Road ran where?

A. Atchison to Lincoln.

Q. When was it first built?

A. Started in 1870 and completed in 1871.

Q. When you began that road it was going through a new, undeveloped country, was it not?

A. Yes; it was not a developed country, there were no railroads there.

Q. No towns there?

A. Yes; lots ot them.

Q. Was'nt Lincoln a village then?

A. Lincoln had 4,000 people.

Q. Now has about 60,000?

A. Yes, sir.

Q. And at that time, between Lincoln and Atchison, was there any town that had more than 1,500 people?

A. Yes, Troy, or Falls City.

Q. What is the population of Troy now?

A. About 1,800.

Q. What was the population in 1880?

A. I suppose there has been a ratio of growth based on time.

Q. What was the population in 1870?

A. I think about 1,500 people; the town I lived in, White Cloud, had about 1,200 people.

Q. Are you speaking from census reports?

A. It is my general impression; I lived in White Cloud, and Troy was the county seat.

Q. Where is Troy?

A. Seventeen miles from Atchison.

Q. In Kansas?

A. Yes, sir.

Q. And at that time what was the population of Atchison?

A. More than it is now.

Q. What was it?

A. I think about 16,000; I think it is 13,000 now.

Q. Now, these large towns you speak of, one was of 1,400 people, was it not?

A. There were others.

Q. I want to know whether it was an old or a new part of the country; you said it was an old country?

A. It was settled fifteen years before; settled in 1855; there was Salem and Rulo.

Q. What was the population of those towns?

A. Rulo 800, and Salem 400, and Humboldt and Table Rock were 400, and Tecumseh was 800 or 900.

Q. Little villages of less than half a thousand each?

A. Pretty good sized country towns.

Q. What was your connection with that road?

A. At first I was agent, up to 1874, and then I was general freight and passenger agent.

Q. When did you become passenger and freight agent?

A. In 1874.

Q. When did you quit?

A. 1880.

Q. During your experience with that road it didn't make operating expenses?

A. It did not.

Q. It was an old and populous country, to your way of thinking?

A. I am giving you the facts about it.

Q. That road has now become a popular road, now since the B. & M. have got hold of it, has it not?

A. It is in good condition, plenty of freight runs over it.

Q. It is operated under the management of a different company than when you were connected with it?

A. Yes, sir.

Q. Now, what was the length of that road while you were connected with it?

A. 147 miles.

Q. Now, when you quit that road at 1880, what did you next do?

A. Went to work for the Rock Island Road.

Q. What capacity?

A. General agent at Kansas City.

Q. And over what branches of its road did you have anything to do.

A. I had charge of the business west of the Missouri River, it was Southern Nebraska, Kansas and Missouri; Mr. Stevens had it here.

Q. Through what part of Nebraska did the Rock Island have a road at that time?

A. It did not have any.

Q. When you were connected with the Rock Island it did not have any road within the limits of Nebraska, did it?

A. No, sir.

Q. Your duties were simply that of an agent having a limited territory?

A. Yes, sir.

Q. You were not general freight agent of the road?

A. No, sir.

Q. Who was the general freight agent?

A. J. T. Sanford.

Q. Where were the general offices of the company?

A. At Chicago.

Q. How long did you stay with the Rock Island at Kansas City?

A. Until 1881; I was there between one and two years.

Q. Now, then, you quit that road and went where?

A. Went with that road to Chicago.

Q. In what capacity?

A. Contracting agent.

Q. Contracting for what?

A. Freight.

Q. How long did you act as contracting agent?

A. About eight months.

Q. Then what?

A. I went to Cedar Rapids, with the Burlington, Cedar Rapids & Northern, as general freight agent.

Q. A road in Iowa?

A. Yes, sir.

Q. Running where?

A. From Burlington to Albert Lea; had about a thousand miles of road—a line to Watertown, Dakota, one to the coal mines at What Cheer, and one to Muscatine.

Q. How long did you stay with that road?

A. Five years.

Q. When did you quit?

A. Seven years ago.

Q. So that you have never been connected in any way with the Union Pacific Railway Company?

A. No. sir.

Q. Never with the Burlington Company?

A. No, sir.

Q. With what is known as the Burlington System?

A. No, sir.

Q. With the Northwestern System?

A. No, sir.

Q. You have never been connected with the Minneapolis, St. Paul & Omaha Railroad?

A. Not as an employee.

Q. You have never been connected with the Rock Island since it has owned and operated railroads within this state?

A. No, sir.

Q. Nor with the Missouri Pacific since it has been operating railroads in this state?

A. No, sir.

Q. So that you have never had anything to do with any of the roads which are defendants in this suit in which your testimony is being taken, or in any of these suits?

A. Well I have contracted freight, through business, considerably, in which they were a part of the line, but I was never an employee of the companies.

Q. You have never been employed by any of these companies?

A. No, sir.

Q. Then you have never been in a position to know their books and accounts as kept by their respective departments?

A. You will have to be specific about that, I have looked at their books and statements some.

Q. You have not been in charge of their accounting departments of any of these roads we are speaking of?

A. No, sir.

Q. You have never been employed by any of these companies in the adjusting or keeping of these accounts?

A. No, sir.

Q. You have never had anything to do with the keeping of the accounts of the traffic department of any of these railroads?

A. No, sir.

Q. And you have not in your possession any of the books of these companies relating to the passenger or freight traffic, have you?

A. I have looked over statements made by the officers of these companies.

Q. Have you in your possession any of the books or accounts or kept any books or accounts relating to the traffic?

A. I have some of the memoranda made by officers of the companies.

Q. Memoranda which have been delivered to you for the purpose of giving you information in your position as commissioner of the club?

A. Yes, sir.

Q. But the books themselves you have never had possession of, and they have never been delivered to you for your inspection?

A. No; if their statements were false, I would have a wrong impression.

Q. Have you any of these statements with you to-day?

A. No.

Q. Have you been giving testimony to-day based upon any of these statements you say you have seen?

A. Yes, sir.

Q. Will you kindly produce such statements as you have used as the basis of your testimony which you have given?

A. I can produce them; I can go and get them; they are simply the tariffs well known to exist.

Q. What tariffs do you speak of?

A. Every rate that I speak of I know all about.

Q. Where did you get them?

A. I go to the officers of the company; they are a matter of public information; they are the posted traffic rates.

Q. Do you mean to say you are testifying from the published tariff rates?

A. From the published tariff rates, and also from conversations with officers of the company, and the rates they got out last August in connection with this Newberry bill.

Q. Will you please produce any of these tariff documents you have used as the basis of your testimony or identify them so we can get possession of them?

A. I can get them.

Q. You have testified here in behalf of the railway companies, have you not?

A. Yes, sir.

Q. So your testimony, so far as based upon statements and declarations of the officers of the railroad companies, is secondary evidence in their behalf?

A. Well, I am here as a representative of the business interests of this city; we are opposed to the Newberry bill, and all the interests of the business men of the town are, and I am representing their interests.

Q. As a witness in this case, you are called in behalf of the railroad company?

A. Yes, sir.

Q. Then you are testifying as a witness in behalf of the railroad company?

A. Yes, sir.

Q. And you are giving testimony based on the statements made by the officers of the railroad company?

A. Not altogether, because I have read the tariffs, and there are other circumstances on which I base my testimony.

Q. Now, aside from these tariffs which you do not produce here, and aside from these declarations which these agents of the railway company have made to you, what other data have you, upon which you have based your answers?

A. What do you refer to?

Q. I am speaking as to freight rates?

A. I have made a statement which covers that; I have made no statements which are not correct; but the tariffs can be produced.

Q. I am asking you as to your basis of information; you have said you have other circumstances; I want to know what they are, distinct from the tariff rate?

A. When they were here discussing the matter I was in the meetings and heard it talked over, and saw the tariff sheets.

Q. These meetings you speak of are meetings of the railroad people?

A. Yes, sir.

Q. You are speaking of what they said and what you heard?

A. No, sir; I saw the Newberry bill, and saw the tariffs; saw them checked up.

Q. I am speaking now first about the declarations and

statements, not about the tariff rates; you are now testifying as to statements which were made in these meetings by officers of the company, or persons representing them?

A. You seem to be trying to make some point on me which I don't understand; I am simply stating the rates were so and so.

Q. And I want you to answer my question; I ask you this: The statements and declarations which were made in these meetings, about which you have testified, were the statements and declarations made by the officers of the railroad companies, were they not?

A. I made no statements depending solely on them.

Q. Will you answer my question, whether these statements and declarations were made by officers of the railway companies?

A. My testimony is not based solely on statements made by officers of the railway companies; you will have to say what statements; I do not know what you mean.

Q. The statements which you say were made at these meetings at which you were present?

A. These statements were made at a meeting where there were thirty or forty men present, discussing these things.

Q. Were these statements made by the representatives of the railway companies?

A. The railway company men at these meetings made a great many remarks relating to the subject, and the subject was the tariffs I have been talking about.

Q. You have used the statements and declarations made by the railway representatives at those meetings as the basis of your testimony, have you not?

A. No, sir; I have not, I have used the rates as they were posted, as they were before they went into the meeting, the statements were entirely outside of that.

Q. Why did you refer to that as a basis on which you were giving your testimony?

A. You wanted to know everything I knew, and I thought I would unbosom myself to you.

Q. Do you want to take it back that you said you were testifying upon the basis of these declarations made at these meetings?

A. No; I want it left just as it is, because you are as badly mixed as I am on it.

Q. Now, in your answers with reference to the proposition that the local rates affect through rates, how do you make that out?

A. Well, it is plain enough. If the rate is 50 cents from Chicago to Omaha, and the rate is 50 cents from Omaha to Dorchester, that is $1.00 for the through rate, if there is a law putting the rate down to 40 cents, then the rate would be 90 cents through.

Q. Do you know of any law which would compel the railway company to charge 50 cents from Chicago to Omaha, and then 50 cents from Omaha to Dorchester; do you know of any law which compels the railway company to make any such distribution?

A. I think the Newberry law, if it was enforced, would enforce that.

Q. Do you understand the Newberry law would compel the railway companies to charge the maximum rate from Omaha to Dorchester?

A. They could charge a lower rate.

Q. You do not mean to say that the railway companies would be compelled to charge the 50 cents from Omaha to Dorchester?

A. I am not prepared to say they can charge less than it; it may be they have got to charge the law, and may be less, it would depend on what the judge would decide.

Q. Don't you know they have been charging less between many points on many articles of freight, and are to-day?

A. On the Newberry rate—yes, that is a fact.

Q And has been so for years?

A. Always is on a railroad.

Q. Do you know of any law which fixes the apportionment of rates on the lines, equally from Chicago to Omaha, and from Omaha to Dorchester?

A. At the present time?

Q. At any time?

A. The law as passed by the legislature would make a maximum charge from Omaha to Dorchester, they would make a through rate to Dorchester.

Q. Is it not true that the railway companies would fix

their rate to Omaha from Chicago without reference to this Nebraska law?

A. Yes, sir.

Q. So far as their rate from Omaha to Chicago is concerned, they are at perfect liberty to fix any rate, so far as our Nebraska law is concerned, are they not?

A. Yes, sir.

Q. They always have had that liberty, have they not?

A. Yes, sir.

Q. So any rate they fix from Chicago to Omaha was a rate with which we have nothing to do, is it not?

A. Yes, sir; in the State of Nebraska.

Q. A rate that was fixed, say, from Omaha to Dorchester, is a rate which has never been fixed by law in this state heretofore?

A. Well, unless you should construe the compromise made with the state board to have fixed it; yes, sir.

Q. Then, so far as the law is concerned, the rate from Chicago to Omaha and from Omaha to Dorchester has been voluntarily fixed by the respective lines of railway between these respective points?

A. Except so far as the arrangement made between the roads and the state board seven years ago.

Q. Then the proportionate part of the tariff which is taken on the line from Chicago to Omaha and the part from Omaha to Dorchester has been a voluntary arrangement between the railroad companies?

A. Yes, unless that compromise fixed what it should be.

Q. So that this division of the tariff between the railway companies at all times has been a mere matter of accommodation between the roads, subject to change whenever they saw fit to change it, has it not?

A. Yes; sir.

Q. And is it not true that the rate has changed on all articles of merchandise shipped over the roads through a period of years?

A. Do you mean to say that the local rate is not being used on any business?

Q. I mean the local rate from Dorchester has not been the same for any period of years; take the question of the rate on corn from Dorchester to Chicago, has not that varied every year?

A. No, sir; it has not; the rates were put in force seven years ago, and the railroads reduced it and then restored it.

Q. It has been changed then?

A. Every year you said.

Q. It has been changed twice in seven years?

A. That is all.

Q. When was the last time it was changed on corn?

A. About last July, I think; I cannot be definite.

Q. Now, we will drop corn and take cattle; has not the rate on cattle changed several times within a period of seven years?

A. No.

Q. If not, what was the rate seven years ago?

A. The rate seven years ago was that made by the compromise; it has been reduced once since.

Q. Then it has been changed?

A. Once—you said several times.

Q. Has it been raised again?

A. No; it stands there.

Q. Do you mean to say that within a period of seven years there has been but one change in the rate on the shipment of cattle from Dorchester to Chicago?

A. That has been so all over the state.

Q. Now, that change was a mere voluntary arrangement between the railway companies, was it not?

A. Well, there was a reason for it; it was not a voluntary rate; it was a cut rate made from Kansas City to the river.

Q. Then it was not voluntary?

A. No, sir; it was forced.

Q. Was there any law or court made any decision, or decree concerning it?

A. It was forced from conditions and circumstances.

Q. It was force which appealed to the good sense of the railway managers and allowed them to act as their best judgment told them, and wasn't that discretion?

A. No; I think they were forced by conditions and circumstances to put the rate in.

Q. So, if I voluntarily do something because I think it is my interest to do it, you would say I was forced to do it because it was my interest to do it?

A. That might be another way to put it. I believe there is lots of business that compels people to do things.

Q. Has it not been true for a long period of time that on articles of traffic from Chicago, say to interior points in the State of Nebraska, they ship them as far west as Lincoln on a fixed rate and then afterwards they add the local rate?

A. For seven years the local rates in Nebraska have been made west of Lincoln on large amounts of business, by adding the rate to Lincoln to the rate west of Lincoln.

Q. So that until the article reaches Lincoln the local rate is not added?

A. No, sir.

Q. Now, after such articles would leave Lincoln going westward there would be added what was the local rate west?

A. Yes, to Dorchester, for example.

Q. That is a custom established by the railway company, is it not?

A. Yes, sir.

Q. The railroad companies fix their local rates from Lincoln to oints west?

A. Those rates were fixed by the arrangement with the state board.

Q. This state board meeting you talk about was simply an agreement arrived at between the railway companies and the board as to what the rate should be, was it not?

A. Yes, sir; the board made a demand, and the railways conceded it.

Q. That was the same as an agreement?

A. Hardly an agreement; they had to do it.

Q. What do you mean by that?

A. The board probably would have made them.

Q. By virtue of what?

A. As officers of the law.

Q. Do you know of any authority?

A. The question had been taken up by the Supreme Court as to whether the board was a valid board, and the Supreme Court said they could make the rates.

Q. Did that board decide that these railway companies should receive freight from Chicago to Lincoln at a fixed rate, and that the railway companies should be required, when an article went west of Lincoln, to add to that the rate on westward?

A. Yes, sir.

Q. Why do you say the board decided the railroad company had to add that?

A. How would the freight have got there? The railroad companies would have hauled it, and would have to charge that rate.

Q. How does it come they carried it from the Missouri River to Lincoln without adding the local rate?

A. They didn't carry it from the Missouri River, they carried it from Chicago.

Q. Carried it from Chicago—it came from the Missouri River?

A. Yes, sir.

Q. Then when it got west of Lincoln they added the local rate?

A. Yes, sir.

Q. Do you know of any decree or order of the board of transportation that required any such thing as that?

A. As what?

Q. As the fact that railway companies should carry the goods from the Missouri River to Lincoln at such rate as they pleased, but after they reached Lincoln, should add the local rate?

A. It was not a local shipment; when you are talking about business from the Missouri River to Lincoln you are talking about local business.

Q. I am talking about this identical shipment that came from Chicago and landed at Dorchester.

A. It went direct from Chicago to Dorchester; you cannot go to work and make a through rate and make it more than two rates that exist, you cannot defend yourself in court on that; I do not see what you want me to say about this.

Q. You have told me three or four times that the railway company added the local rate from Lincoln to Dorchester?

A. Yes; in making the through rate.

Q. I ask you why for the same reason the railroad company was not required to aid the local rate from the Missouri River to Lincoln?

A. Do you want to convey the idea that they could

make the last rate from Lincoln to Dorchester if they wanted to? I will confess I am not able to answer your question because I cannot understand it.

Q. Now, in fixing the rate from Chicago to Dorchester, you will admit that it is true that in doing that they take into account the proportionate charges between the respective points, and the amount from the Missouri River to Lincoln was less than the local rate?

A. No; the B. & M. get more than the local rate, because they get forty-five per cent of the through rate.

Q. What are you speaking about when you talk about the differential between Omaha and Lincoln?

A. I am talking about the through rate.

Q. This differential from Omaha to Lincoln was always less than the local tariff?

A. The differential from Omaha to Lincoln, that is not the way I want to put it. The differential from Chicago to Lincoln—

Q. Answer my question.

A. You mean on local business.

Q. I don't care what it is; I am asking about your charges from Omaha to Lincoln on differential rates.

A. I will say this, that on business from Chicago to Lincoln the differential was above the Missouri River rate; on first class, for example, 5 cents up; the local rate from the Missouri River to Lincoln is more than 5 cents.

Q. Then that rate of shipment was less than the local rate from the Missouri River to Lincoln?

A. Well, that is not the proposition; you are talking about through business from Chicago.

Q. You are inserting that all the time and I am not.

A. What you want to do is to prove that the local rate from the Missouri River is 5 cents.

Q. No, sir; I do not know what it is, and I do not care what it is; I am asking you the question whether that rate which the railroads get from the Missouri River to Lincoln was not less than the local rates between those points?

A. What rate?

Q. The rates received by the railway companies?

A. Their proportion of the through rate? If that is so, it was a good deal more than the local rates.

Q. So you mean to say now, that on merchandise shipped from Chicago to Lincoln the freight charged on those goods from Omaha to Lincoln was greater than what was the local rate from Omaha to Lincoln?

A. I mean that the local rates were such that the B. & M. getting forty-five per cent, got more.

Q. The B. & M. on a shipment from Omaha to Lincoln received how much of the whole tariff from Chicago to Lincoln?

A. The business went through Plattsmouth, and on the through business the rate was 5 cents higher than the Missouri River rate, and the B. & M. get forty-five per cent out of 100 of the through rate.

Q. It was how far from the Missouri River to Lincoln?

A. I think it is sixty-one miles.

Q. How far from the Missouri River to Chicago?

A. About 485 miles.

Q. So then, on an amount of shipment which would be worth $100 freight charges from Chicago to Lincoln, the line from Chicago to the Missouri River being 485 miles, would receive $55 and from the Missouri River to Lincoln, 61 miles, would receive $45?

A. Yes, sir.

Q. Now, that is the way you understand the through rate was established?

A. That is the way it was divided.

Q. Now, the territory from the Missouri River to Chicago was through a comparatively level country?

A. From Chicago to the Missouri River; yes, sir.

Q. And from the Missouri River to Lincoln, likewise through a comparatively level country?

A. Yes, sir.

Q. And the character of the road bed is quite alike?

A. Yes, sir.

Q. And both of these branches or lines are operated by the same company, are they not?

A. The same owners, but the earnings are kept separate.

Q. It is all owned by the Chicago, Burlington and Quincy Railroad Company, is it not?

A. Yes, I believe it is.

Q. That is a matter of common knowledge, is it not?

A. Yes, sir.

Q. Now, if that railroad company should haul that freight from Chicago to the Missouri River for 55 cents, why should it not continue to haul it over its same road, without change of cars, from the Missouri River to Lincoln, at the same rate?

A. Because the earnings west of the Missouri River are small; the road in Nebraska does a small business and east of Nebraska does a large business.

Q. You have talked about through trains?

A. Yes, sir.

Q. You are talking now about interstate shipments?

A. Yes, sir.

Q. It would not cost any more to haul that through train from the Missouri River to Lincoln than it cost per mile from Chicago to Lincoln, would it?

A. Yes; simply because there is not so much business done west of the river as east.

Q. Here is a train made up in Chicago, of twenty cars, loaded, takes so many men to haul it; it gets to the Missouri River—don't the same men haul the same train of cars, with the same engine, to Lincoln?

A. No.

Q. Why not?

A. They make new trains at Plattsmouth.

Q. They make up the same kind of a train?

A. I will admit that the C., B. & Q. railroad does take the B. & M. trains to Plattsmouth.

Q. It don't cost anything more to haul that train?

A. Yes; it does.

Q. I am talking about that particular train, and I want you to haul that train to Lincoln?

A. It costs more.

Q. Explain why?

A. Because their coal costs more is one reason.

Q. Can you name anything else?

A. Yes, there is less tons of freight.

Q. On that same train?

A. On that same road.

Q. I am talking about that particular train, I am not talking about the money the road is making?

A. Well, I suppose that the same number of men would be on the train, so far as that is concerned, as there would be east of the river.

Q. And the only difference you speak of is the cost of coal?

A. I speak of other things, but you won't accept them.

Q. Let us talk about these rates from Omaha to Lincoln, differential rates, to what do they apply, and between what points?

A. They apply to Mississippi River points and east thereof; between Mississippi River points and Lincoln, and all points east of Mississippi River points.

Q. And why do you call them differential rates?

A. Well, they are so much higher than the Missouri River rates, and the through rate between the Mississippi River and Lincoln is practically put in force by the inter-

state commerce commission and the Lincoln jobbers. The rates were higher, and the complaint was made, and the commission took testimony, and made a decision forcing these rates into effect. They refer to the decision of the interstate commerce commission. The reason the rates were put into effect is, the Missouri Pacific railroad, after the law took effect, passed through the east part of Nebraska, it ran very close to Lincoln; it was claimed by the people in Lincoln that their branch to Weeping Water made their road closer to St. Louis than to Omaha, and the commission considered the matter and those rates were put in.

Q. Were those rates favorable to Lincoln merchants?

A. They were what the Lincoln merchants wanted.

Q. They were favorable to them as against other people?

A. They were equalized rates; it was a fair proposition; when you say favorable, you mean they had something better than somebody else?

Q. Yes.

A. That is not a fact; they were on an equality with somebody else.

Q. On an equality with whom?

A. On an equality with any other jobbing point in Nebraska. After taking everything into consideration, they felt that the differential rates would be near enough to the rates of Nebraska City, for instance, to enable them to protect themselves; it was agreed that they should have a little higher rate than Omaha or Nebraska City, or St. Joe, and

so based on what was equality, they demanded that and got it.

Q. You mean the railway company acceded to the demand to give to Lincoln a rate which enabled them to receive freight and ship it out in competition with Omaha and Nebraska City, and other points?

A. Yes, sir; the western rate was fixed up at the same time; on the whole it was submitted that they put Lincoln on an equality, and permitted them to do business as well as anybody else.

Q. Is it not true that after the present state law was enacted there was a threat on the part of the railroad company to raise their rates from Omaha to Lincoln?

A. No, sir; it was not a threat, it was a proposition.

Q. Did they intend to do it?

A. The railroad companies intended to try and raise that rate, because the reduction in local rates was such they wanted to recuperate their earnings; they were going to raise the rate from Chicago west to Lincoln and Beatrice.

Q. On what part of the road was the increase to be added?

A. On the through line.

Q How apportioned?

A. You cannot apportion it; it is a through rate.

Q. You have talked all the time of the apportionment of the rate between Chicago and Lincoln on through business, by which you gave the railroad from Chicago to the Missouri River fifty-five per cent. and from the Missouri River to Lincoln forty-five per cent., why couldn't they apportion

this in the same way? How was the through rate to be divided?

A. On the basis of forty-five and fifty-five per cent.

Q. You say it was to be increased, what railroad was to get the benefit of the increase, that part running between Chicago and the Missouri River, or that part running between the Missouri River and Lincoln?

A. They were both to get it, because it was to be divided on the basis of per cents.

Q. It would be divided on the same basis as the original per cent of fifty-five and forty-five, would it?

A. Yes, it would be.

Q. Now, what you stated with reference to the percentage of fifty-five from Chicago to the Missouri River, and forty-five from there to Lincoln, was that a percentage that applied to freight traffic generally?

A. It applied to all business upon those two roads and between those points.

Q. Did or did not a like system apply on freight going on other lines of railroad?

A. Yes, the Union Pacific and Milwaukee, and the Rock Island, and the Elkhorn and Northwestern.

Q. Of the same character?

A. I do not know what they were on the Elkhorn and Northwestern, but the divisions on the Union Pacific and lines east were of a similar character.

Q. When you speak of the Elkhorn and Northwestern, it is one system of road?

A. It holds about the same relative position as the B. & M. and C., B. & Q.; they are operated by different managements.

Adjourned until Dec. 23, at 2 P. M.

OMAHA, Dec. 23, 1893, 2 P. M.

The further taking of testimony was resumed by the continuance of cross-examination of Mr. Utt by Mr. Webster.

Q. With reference to the establishment of rates, to-wit: by adding the local rates from Lincoln to a point west at which the article may be received or delivered, if I understand you, that manner of establishing rates does not apply to certain articles, such as coal and grain?

A. And some other articles; yes, sir.

Q. By that do you mean to say that coal and grain would be carried over the distances between these points west from Lincoln at a rate less than the local rates?

A. Well, coal is not handled locally.

Q. What I want is for you to explain what you mean when you say that the rate on such articles as coal and grain is fixed on a different basis?

A. Now, the rate on coal is made from a point outside of the state, where the coal mine is situated, where it is soft coal, or coal from Chicago, which comes over the lake, which is hard coal, there is a through rate made from Chicago or the coal mine, to a certain point in Nebraska; that

rate is based on certain conditions; the cars are brought to Council Bluffs, or in most cases to Omaha, on a through way-bill to this point, and if they wish to extend it they simply change the billing, so it becomes a through way-bill from Chicago to Lincoln or to Dorchester. They are not based on the sum of any rates, simply based on the conditions.

Q. Are they shipped at what would be a higher or a lower rate than that which would apply to other articles whereon the local rate between Lincoln and a point west is taken into consideration?

A. It would be shipped on a much lower rate.

Q. Those lower rates are fixed by the railway companies for such articles as coal and grain, according to the judgment of the officers of the railway companies as to what is proper under the conditions, are they not?

A. In this instance the rates are those made seven years ago, when the railroads conferred with the state board and agreed to put in low rates on grain and coal, such a class of rates as would be particularly beneficial to the farmer, and they have maintained those rates ever since. The theory was that as most of the business was interstate business, and as the farmers were particularly interested the railroads should make a low rate, which they did by the agreement with the state board, and they have remained in effect ever since; prior to that the rates were higher.

Q. When you are talking about this agreement with the state board, which I have not asked you about at all,

but which you have volunteered, will you answer whether that agreement was in writing?

A. Yes; because I was there at the time it took place; it was a regular meeting.

Q. Was a written record kept of those proceedings by that board?

A. There certainly was.

Q. Have you ever seen a copy of the record?

A. I have not looked at the record, but I was at the meeting, and those rates were agreed on at the time, and put into effect at the time, and have remained ever since.

Q. Do you know whether that board ever made any report of such agreement to the legislature of the state?

A. I would not say definitely about the state, but the reports made by the board to the public have always since that time referred to this system of making rates, wherein the railroads agreed to make these rates.

Q. I would like you, if you can, to furnish me the agreement which you refer to when you are volunteering this testimony about the agreement?

Objected to, as counsel cannot drive the witness to the production of any paper whatever, and it does not yet appear that there was any written agreement expressing the arrangements between the companies and the board.

Q. What I desire, Mr. Utt, is, was such an agreement as you are testifying about reduced to writing, or did it become subject to official action, and was recorded in any book;

if so will you produce the paper to which you refer or the book to which you refer?

A. There can be plenty of testimony here in town produced to substantiate what I say.

Q. Can you, or can you not, produce the record of any such meeting?

A. I would not want to say, but certainly it is on file in the state board office.

By Mr. Woolworth:

Q. You mean it ought to be on file there?

A. I think it is; there is plenty of people here in town to testify to it; the tariffs before and after would be good evidence if you want to get that.

By Mr. Webster:

Q. In the shipment of coal, being one of the articles you have spoken of, is not a large quantity of that coal billed directly from Chicago to Omaha, in the first instance, and afterwards rebilled from Omaha to other points?

A. Not a car; not at all.

Q. Does not your same principle frequently apply with reference to shipments of grain, that in the first instance it is shipped to Omaha, and thence on to Chicago?

A. Well, grain is shipped from points in this state—at the time it leaves the station the destination is not known, but the owner of the property has the benefit of taking the through rate to Chicago, St. Louis, New Orleans, New York, Baltimore, or elsewhere; this is a great advantage to the owner of the property.

Q. I am not asking you whether it gives him any benefit, I am not asking you for any lecture as to the advisability of the route, I am asking what the rate is?

A. I couldn't answer the question without explaining these conditions.

Q. I am asking as to the condition, if you don't know, say so.

By Mr. Woolworth:

I say the witness shall go on and answer as to the best of his ability, giving such explanations as shall make the matter clear in all its aspects.

Defendant's counsel objects to counsel for plaintiff instructing the witness in the presence of the examiner to make such answers as amount to an argument.

Counsel for plaintiff protests that he does not do anything of the sort, but following the example of the counsel for defendants, he wishes the witness to have perfect freedom to answer the questions fully, and show the whole truth.

Q. Now, then will you not answer my question, and state whether or not grain is not frequently shipped to Omaha and then afterwards the same grain and same car consigned to Chicago?

A. Well, to answer that one way would be a misconstruction; grain shipped from Nebraska to Chicago is all on an interstate rate. There is no grain shipped locally in the manner your question would indicate.

Q. Now, then, will you answer my question directly, whether grain is shipped to Omaha, and then re-consigned to

Chicago without being changed from the car in which it is loaded?

A. Grain is not shipped to Omaha, and re-consigned to Chicago, because—

Q. I do not care why it is done?

By Mr. Woolworth:

Let him go on and explain what he wants to now.

Q. Now as to cattle, is it not true that cattle from various points are consigned to South Omaha and thence re-consigned to Chicago?

A. Yes, they are shipped, but that is a different case as compared with coal and grain, because they are based on the sum of two rates.

Q. In the shipment of cattle, do you understand that the through rate from the place of shipment to Chicago would be the amount of the tariff from that place to South Omaha, added to what would be the tariff rate from South Omaha to Chicago?

A. In some cases it is true, and in some cases not true.

Q. Is it not also a regulation of the company that cattle may be shipped from a point of shipment, with the privilege to the shipper to unload the cattle at any intermediate point, and then reserve to himself the right of afterwards shipping the cattle to the final point of destination, to which—Chicago is an illustration—he ships them, and if he did so, he gets the advantage of the through rate?

A. Cattle are shipped from Nebraska to Chicago, with

the privilege of taking the local rate; if they went through it would be the through rate.

Q. So then, if the shipment terminated at South Omaha, the rate collected by the railroad company would be greater if shipped to South Omaha, than it would be over the same line if it went through to Chicago?

A. It is according to what point it is from; there are different conditions.

Q. From any point in Nebraska on the line of the Union Pacific Railway?

A. Well, from points this side of Fremont the rate is made on a different basis from what it is from points beyond Fremont, in Nebraska. However, on a through rate the railway company is always willing to stop the stock at South Omaha and give the shipper an opportunity to sell it there, and then the original contract would be made void, and the local rate would apply; if he wanted to go on to Chicago the interstate contract would continue, and it would go on through on the through rate.

Q. If he decided to reship his cattle from South Omaha to Chicago, he would get the benefit of the through rate, but if he sold at South Omaha, he would pay the company the local rate?

A. The word reshipping is a different word from what is meant by shipping; the reshipment is another contract altogether; the contract is made from the starting point; the question you asked me leads a person to think they are two separate contracts.

Q. I will relieve your mind of the embarassment of the talk about the term shipment, and put the case where the car itself, loaded with cattle, came from the point of shipment to South Omaha, and then, after stopping over night, went on to Chicago, at the dictation of the shipper?

By Mr. Woolworth:

In the same car?

By Mr. Webster:

I did not say that.

By Mr. Woolworth:

Your question implies it.

By Mr. Webster:

I will put my question again.

Q. What I want is the case where the shipper of cattle ships his cattle from a point any where west of Fremont, in the State of Nebraska, and unloads his cattle at South Omaha, and then causes the same cattle to be shipped on to the Chicago market, in such case does not the shipper have the benefit of the through rate from the point of shipment to Chicago?

A. Well, there is just the point again about the inference about his reshipping; he does not reship; a man might ship a carload from Montana to Chicago and stop and feed them three times; he would not reship them three times; we are talking about a flat rate; the rate as made west of Fremont; there are two conditions: one is he can stop and feed his cattle at different points, and he can always terminate his contract, and the railroad company

take the rate so far as he has gone; that is to say, a man may ship a box of goods to Omaha, and then request the railroad company to terminate the contract before it gets there, and the railroad company will take up the contract; the privilege of stopping off to dispose of property is always understood, and when they do it the railroad always takes up the contract.

Q. After that extended elucidation which you have volunteered, will you answer me this question, in case the shipper took off his cattle at South Omaha, he would be required to pay the local rate from the point of shipment to South Omaha, would he not?

A. That is all true; certainly.

Q. That carriage from the point of shipment to South Omaha would be at a higher rate than he would have been required to pay for the same pro rata distance if the shipment had continued to Chicago?

A. Yes, a shipment is at a less rate per ton per mile to Chicago than a shipment to South Omaha.

Q. So, then a shipment of cattle in carload from such points on the Union Pacific, which passes east from South Omaha, or east to Chicago, the amount paid on that shipment depends on whether that shipment shall be terminated at South Omaha, or whether it shall go on to Chicago?

A. Yes, the railroad collects for the services performed.

Q. But in going to South Omaha from the point of shipment, that shipment of cattle would travel over the

same line of railroad that it would travel over if it had gone to Chicago, would it not?

A. So far as that distance is concerned.

Q. It would be carried by the same crew of train men, and the same railroad engine?

A. Not necessarily; it is according to what point it came from.

A. I don't mean whether it would be a change of the crew between the point of shipment and South Omaha, but it would be the same crew of men whether it stopped at South Omaha or whether it went on through?

A. Yes, sir.

Q. And the cost of coal for the use of the engine would be as great in the one case as in the other.

A. Yes, sir.

Q. And the pay of the wages of the men would be as great in the one case as in the other?

A. Yes, sir.

Q. Then, in short, the cost of transportation would be the same in the one case as in the other, would it not?

A. As applied to that shipment.

Q. Now, with reference to the St. Joe & Grand Island Railway Company, of which you made mention as making rates from certain points which were the same to Kansas City as to Omaha, is it not true that the St. Joe & Grand Island Railway is operated by The Union Pacific Railway Company?

A. No, sir; it is operated by a separate company, with headquarters at St. Joe.

Q. What company is it operated by?

A. Well, W. B. Robinson is the general manager of it.

Q. When did you understand it was broken loose and operated separately?

A. About three years ago; the Union Pacific operated it a long time, and then there was a complaint made by some bondholders, and it was broken loose and operated separately.

Q. Don't you know in this identical litigation the Union Pacific Company claims to be operating that road?

A. They have guaranteed the bonds.

Q. I am asking you if in this suit you do not know that the Union Pacific Railway Company claims to operate that road as a part of its general system?

A. I am not prepared to answer; I have not looked into that.

Q. If they do so claim, and their witnesses have so testified in this litigation, that they do operate that as a part of their system, you are mistaken in your answer, are you not?

Objected to by complainants as not proper cross-examination, and also on the ground the question submitted to the witness contains conditions that do not exist; it is not true.

Q. That railroad runs between what points?

A. Grand Island and St. Joe.

Q. Now, what articles of freight is it that are hauled

over that line of railroad for which that road gives the same rate to Kansas City and to Omaha?

A. Merchandise and live stock. They don't make the rate to Kansas City; they run to St. Joe.

Q. Then as to what point is it you mean to say they fixed the same rate?

A. They make the same rate to St. Joe, in order to protect the shipper, as against Omaha, to protect the shipper here.

Q. In other words, you mean you say that they fix the rates by which an article in any point in Nebraska, may be transported to St. Joe as cheaply as it may be transported to Omaha, do they?

A. Yes, sir, points on their line in Nebraska.

Q. That is regardless of the question of the distance from the point of shipment to St. Joe, be it the same or not the same as the distance to Omaha?

A. Yes, the rates are based on equalized rates entirely.

Q. They are not based on the distance, then?

A. No, sir.

Q. Is it not true that in the present system of establishing rates, that the rates are not fixed, or have not as a basis on which they are fixed, the distance over which freight is to be hauled?

A. They make the rate to St. Joe because it is necessary to do that to get the business as against the Omaha shipper, regardless of the distance they haul it.

Q. The result of that is, Mr. Utt, that the railway

company would haul freight cheaper for one man than it would for another if the point of destination should be different?

A. Well, I would not know how to say yes to that, because that means considerable.

Q. Take a case where it is a greater distance from the point of shipment to St. Joe than to Omaha, does not the railway company haul that freight over that greater distance to St. Joe for the shipper who ships to St. Joe than he would haul it for the shipper who ships his goods to Omaha?

Objected to because it is not true that the Grand Island Railroad runs to Omaha, and has not any shipments over it to Omaha.

A. Of course the St. Joe & Grand Island railroad would have to go out of business if it did not haul goods to St. Joe.

Q. Will you answer my question, please?

A. No; because the St. Joe & Grand Island Railroad does not run to Omaha.

Q. Will you observe that I did not state that the St. Joe & Grand Island carried the freight to Omaha?

A. I thought you meant exactly that.

Q. Were you not prompted by your counsel, Mr. Woolworth, to interject that answer?

By Mr. Woolworth:

Objected to, as I am not counsel for the witness; he is trying to avoid the misconstruction which the counsel for

the defendants is trying to make out, and is trying to get at the truth.

A. No, sir; that I suppose is the St. Joe & Grand Island road.

Q. Will you answer my question; did you understand me to put into my question as a part of it, that the St. Joe itself carried the freight to Omaha?

A. Yes, sir.

Q. Will you observe that I did not put any such thing as that in my question?

A. You are talking about a shipper and the St. Joe & Grand Island Railroad; the St. Joe is in competition with a road to Omaha, and have the same rate in order to secure the business to St. Joe, that a competing road would make to Omaha.

Q. Then they take the established rates and fix the rates for which shipments are to be made to Omaha?

A. No, sir; the fixing is made the other way.

Q. So as to accommodate that road to St. Joe?

A. They do make the rate to St. Joe.

Q. Then, the point is, they haul freight from the point of shipment to St. Joe at a rate per mile which is cheaper than the rate which is charged per mile for the shipment of like freight from the point of shipment to Omaha?

A. By them.

Q. I didn't say by them; don't incorporate into my question what I hav'nt put there?

A. They haul freight from the point of shipment to St. Joe at a less rate per ton per mile than a competing road hauls freight to Omaha.

Q. Now, furthermore, is it not true, that in establishing freight rates, even the local rates, if between the two local points there be competition in lines of railroad, that the rates are less between those points than they are between other points equally distant, but between which there are no competing lines?

Objected to as immaterial and not proper cross-examination.

A. Less where there are competing lines than where there is no competition?

Q. Yes.

A. Well, in some cases that might be true, and in others not.

Q. Now, Mr. Utt, will you name one instance of the tariff on any line of railroad within the limits of the state of Nebraska, between any two points to which there is no competition, where the local rate is equal to the rate between any other two points equally distant apart where competition does exist by other lines of road?

A. Well, do you mean by that that you want me to name a road where it is as high between two points in the state where there is no competition, as it is between two points in the state where there is competition?

Q. No, sir; that is not what I asked you. I asked you whether the rates were not lower between points where

there existed competition and competing lines of railroad than the rates between other points where such competition did not exist, and you answered me that in some cases they were lower and others they were not.

A. Yes, sir.

Q. In view of your answer, I ask you to give me a single instance?

A. In cases where they were not lower?

Q. Yes.

A. Well, it is according to what the basis of making the rates is; it is quite a long story about that; there are lots of reduced rates out of Omaha to points in the state that are competitive, and that are not competitive, that are made by the demands of trade; I do not believe there is in this state any case where there are any reductions on account of competition; it is on account of some general principle as applied to the rates; the rates are made in this state by agreement between the roads.

Q. Are not the rates less per mile between Omaha and Lincoln than they are per mile for an equal distance on the line of any of the railroads running west of Lincoln on the same lines of freight?

Objected to as incompetent; the rate from here to Lincoln and the rate from Lincoln west has nothing to do with this question, nothing in the world; there is just about as much competition west of Lincoln as there is east of Lincoln.

By Mr. Webster:

I am asking for a fact.

By Mr. Woolworth:

The fact is immaterial.

A. Well, the rates from Omaha are very different; they are based on what is necessary to equalize this city against other jobbing points; west of Lincoln on some branches that would be true, and on some not.

Q. Can you give an instance where it would not be true?

A. I am inclined to think, in fact, I am certain that the rate for fifty-five miles west of Lincoln, directly west, is higher than the rate from here to Lincoln, because the conditions are different.

Q. Well, the fact that it is higher, then, is true, is it?

A. Yes, sir.

By Mr. Woolworth:

I do not see how you apply that to this case.

By Mr. Webster:

That is when I argue this case; I don't have to do that now.

Q. Now, is it not likewise true, that the line of roadbed west of Lincoln is over a country with less grades than is the line of road over the B. & M. from Omaha to Lincoln, I mean taking the same number of miles directly west of Lincoln as from Omaha to Lincoln?

A. It is according to how they haul the freight from here to Lincoln. It is usually hauled by the Missouri

River route, and in that case the grades are heavier west, because there is a very heavy grade at Crete; there is more volume of business east of Lincoln.

Q. I will ask you why you volunteer that question?

A. Because you try to infer that it goes by the cut-off.

Q. I have not said that at all, and why do you refer to that question of the volume of business?

A. I wanted to make that clear.

Q. Has the volume of business anything to do with the grades on the road?

A. It has a great deal to do with the rates, and we were talking about that.

Q. I am talking about the grades on the road; I am not asking about the volume of business; I want to get from this witness why he volunteered a statement in here and he refuses to answer; I want the witness to answer. Answer this question, why you volunteered this mattter of the volume of business when I didn't ask you that?

A. You can have it stricken out.

Q. I don't want it stricken out; I want to know why you volunteered it?

A. I supposed we were discussing the subject and getting at the facts.

Q. Did you suppose the volume of business had anything to do with the grades?

A. You were talking about rates.

Q. How do you know I am?

A. Because we were talking about it.

Q. Did I put anything in that question about rates?

A. You asked about rates to Lincoln.

Q. Do you discover that I have dropped that?

A. Yes, sir.

Q. Going back to the question; I am speaking about the grade of the road, and will you answer me whether the grade of the road on the direct line to Lincoln is not a much heavier grade than the road west of Lincoln on the same distance?

By Mr. Woolworth:

What road?

By Mr. Webster:

I have not changed the road; he can take any one he pleases; we have been talking about the Burlington & Missouri road; didn't you answer about the Burlington & Missouri road a moment ago?

A. Yes, sir.

Q. You were talking about the Burlington road?

A. Yes, sir; but it seems you wasn't.

Q. Don't you know that is the only road we have mentioned on this question of grades?

A. I don't believe any road has been mentioned except by me.

Q. Take the road you have mentioned, is not the grade heavier on the direct road from Omaha to Lincoln, on the Burlington Road than it is on the same road to a point equally distant beyond Lincoln?

A. The grades are less on the road the freight is

hauled on from here to Lincoln than they are west of Lincoln.

Q. I asked you about the direct road?

A. If you will specify the line I will give you my opinion.

Q. You stated that the distance from Omaha to Lincoln would be fifty-five miles, didn't you?

A. Yes, sir.

Q. Is not that the road running from Omaha to Lincoln?

A. Yes, sir.

Q. And not the road that goes down the Missouri River?

A. Well, the rates are made on the short line.

Q. When you spoke of the distance from Omaha to Lincoln being fifty-five miles, in your previous answers, did you not have in mind the direct line from Omaha to Lincoln?

A. Yes, sir.

Q. And in those answers, you did not have reference to what you now speak of as the Missouri River route; in other words, the Missouri River Route is more than fifty-five miles from Omaha to Lincoln?

A. I do not know, it is a little longer.

Q. Is it not sixty-four or sixty-six miles?

A. It is some longer.

Q. Is it not true in your previous answers you had in mind the fifty-five miles route.

A. When I spoke of the rate basing line I did; but the two things we are talking about are different.

Q. I am talking about this line of road in which you have named the distance as being fifty-five miles in your previous answers, and I ask you now, whether the grades are not greater on that line between Omaha and Lincoln than they are west of Lincoln for the same distance?

A. I cannot say; I doubt whether there is any heavier grade between here and Lincoln than there is at Crete.

Q. By that do you mean that you think at Crete, at that point, there exists a grade that may be as great as the grades on the line between Omaha and Lincoln?

A. I said there is doubt about it; they are both pretty big grades.

Q. When you speak of the grade at Crete, that is a grade at one point, while, is it not true on this line between Omaha and Lincoln there are frequently very heavy grades?

A. No; I think there is only one, if I remember correctly.

Q. Are you an engineer?

A. No, sir.

Q. Is it not true that the line from Omaha is through a very hilly, rugged country, while the line west of Lincoln is through a comparatively level country?

A. I think the condition of the country is very similar for a considerable distance west of Lincoln to the country between here and Lincoln.

Q. In establishing the rates between the chief business

centers, and interior points, are the rates not so established as to give the jobbers of the chief business points favorable rates for the purpose of encouraging business, and other other objects, good, bad or indifferent?

Objected to because none of the objects are bad or indifferent; they are all good.

A. Well, the rates are based on conditions, as I have stated several times.

Q. Then, if the conditions are that the railway company would be interested in building up a business locality, it would give to the shippers to or from that point lower or favorable rates?

A. Well, the railroad company would not pick out a locality and give them a preference over some other locality, for the purpose of building it up, to my knowledge.

Q. I didn't ask you whether they would or not?

A. Well, they don't! If they don't, they wouldn't; I don't think they would pick out a point in the state and give it rates and try to build it up.

Q. What do you mean by your answer in chief that the railway company was giving favorable rates to Lincoln, because it was a large manufacturing point?

A. I meant the manufacturing interests; they wanted fuel, and they were competing with points all over the state, and the railways considered their business and gave them rates on fuel.

Q. Which rates to Lincoln would be a less rate than to

other points where there didn't exist the same industrial enterprises?

A. It might be so.

Q. So that the consumer of coal in Lincoln would get his coal at a less rate of freight than the consumer of coal at a small point where there did not exist the same industrial interests?

A. That is not true.

Q. Why did you say it was so?

A. When the rates were put into effect to Lincoln, it was extended elsewhere, so that it is a blanket arrangement, all points between here and Lincoln have the same rate; the rates are graded about the country; as a matter of fact, the rates on fuel are very low to all points in the state.

Q. Take the question of rates to South Omaha, which you spoke of in your testimony in chief as being reduced so as to be favorable to that locality, did you not mean by that that the railroad companies had reduced the rates on freight that went to South Omaha, on account of the industries there being developed?

A. They made the rate on hogs to Lincoln and Omaha and Nebraska City, all points; when they made the rates out of Omaha, they made rates out of all the other cities; in doing that they did not discriminate against other points.

Q. In view of that I would like to ask you what is the nature of your business as commissioner in this city; to get rates favorable to Omaha merchants, if, in your mind, no such things exist?

A. I do not try to get rates favorable to Omaha; I try to get rates that do not discriminate against Omaha; all we ask is equality.

Q. Are you willing to admit that before your appointment as commissioner you did not have these equality rates?

A. At Omaha?

Q. Yes, sir.

A. There is no particular complaint; the question of rates at Omaha is a pretty broad question; there is a good many things I could state; there is a question between the roads and the business man as to whether he is discriminated against; it is a matter of discussion; people sometimes think they are discriminated against, and the facts show they are not.

Q. In determining the freight rates, is it not true, Mr. Utt, that the rates are established by the general freight agent, or proper officer, and are subject to modification, and are frequently modified at the solicitation of shippers?

A. Yes, sir.

Q. Such modifications, however, are the modifications that are made upon a particular class of merchandise which is thus taken into consideration between the interested shipper and the freight agent?

A. Generally, the rate is made an open one that anybody may use between those points.

Q. It does not follow, however, that when such reduction is made between those two points upon a particular line

of goods, that a like reduction is made on the same road between the same points, upon other articles of merchandise, does it?

A. The conditions being different, the rates might be that way.

Q. Suppose the shipper and the railroad company are commonly interested in a reduction on coal, and the reduction is made of the fixed rate on coal, as the result of a conference between the shipper and the company; it does not follow that the rates are reduced on all other articles of merchandise?

A. No, sir; they might reduce it on coal and not on corn.

Q. In other words, is it not true, Mr. Utt, that the officers of the road, having the fixing of freight rates in charge, negotiate with the shipper for such rates as the railway company may think proper, under all circumstances, to give for the particular article of merchandise in question?

A. The rates are frequently made that way.

Q. Adverting, for a moment, to your syrup illustration; I did not quite understand what you meant about the principle upon which the freight rate on syrup was established between certain points in Iowa named by you, to-wit, Waterloo, Des Moines, and Omaha?

A. I mean this, that where the rates are made by state authority, as in Iowa, that the railroads consider are unreasonable, they become inflexible, they become an iron rule of rates, and there is no modification based on conditions

and circumstances; in the State of Iowa they apply the tariff strictly as made by the state control, and the results in the case of the shipment of syrup was that a 25 cent rate was made from Omaha to Waterloo, in the following manner: 5 cents for the bridge from Omaha to Council Bluffs, then the local rate from Council Bluffs to Des Moines, then the local rate from Des Moines to Waterloo, making 25 cents.

Q. Where is Waterloo?

A. It is about thirty miles north of Cedar Rapids; it is where the Illinois Central passes through from Dubuque.

Q. The rate from Omaha to Waterloo would be the sum of the three locals?

A. Yes, sir.

Q. Why do you speak of Waterloo as the objective point?

A. Because Mr. Farrell came to me about this particular case and I tried to get it adjusted.

Q. Is there any reason why Waterloo should be used as an illustration rather than any other point?

A. No, sir.

Q. Is it not simply because you happened to be informed about this point?

A. It applies to Iowa in a general way.

Q. I want to get at whether the same system applies to all other points in the State of Iowa?

A. Yes, sir; it does.

Q. If that is true as a principle, the rate to any point in Iowa would be simply the result of the three locals?

A. Yes; if three roads are joined in making the rate.

Q. Would not the rate be the same between Cedar Rapids, for instance, and Omaha, where it would go by the Northwestern the entire distance, as where it would go over the line of two other roads?

A. No, sir; in the case of Cedar Rapids it would be different; they would take the rate from Omaha to Council Bluffs, and then to Cedar Rapids; in the other case they took the rate of the other several lines, because there was no line running from Council Bluffs to Waterloo.

Q. Suppose you take any point where there is one through line, and which is likewise reached by two lines, would not the rate be the same over either road?

A. The sum of the two lines as against the short line?

Q. Yes.

A. I am not positive about that.

Q. If the through line carried the freight for a specified sum of money, do you not understand the other lines would have to carry it at the same rate if they expected or hoped to carry the freight?

A. That is quite a question; I do not know in Iowa what they do; I know in this state they were debating it very closely as to what they would do when a long line was in competition with a short line; the supposition was they would let the short line take the business and the two short lines making the long line would not do it, that is, they would concede it to the short line.

Q. Debating about what?

A. Just the case you refer to; you said if a short line applied the local rate and took the business, would the two lines making a longer line take the freight and compete with it; I am not sure what is done in Iowa; I know that is a question that was debated in Nebraska by the roads.

Q. I am asking the fact?

A. You ask the fact, and I tell you I do not know.

Q. Have not you testified before that in establishing the freight rates the question of competition is always taken into account?

A. Yes, sir.

Q. And in reference to the St. Joe & Grand Island road, is not a rate established which would carry freight from a given point in Nebraska over a longer distance to St. Joe, than like freight would be carried for from the point of shipment over some other line into Omaha?

A. In case of the St. Joe and Grand Island, that was not the point, we were talking about rates in Iowa over two lines between two given points.

A. Mr. Webster. Read the question (question read as follows:)

Q. And in reference to the St. Joe & Grand Island Road, is not a rate established which would carry freight from a given point in Nebraska over a longer distance to St. Joe, than like freight would be carried for from the point of shipment over some other line into Omaha?

A. It is a fact that the rate from some points in Nebraska to St. Joe are the same over the Grand Island Road

as it is from the same points to Omaha, over some other road, and the distance is greater to St. Joe.

Q. In the case of shipment of freight from Lincoln to Chicago and Omaha to Chicago, is not the commercial rate the same?

A. The rate the same from Lincoln and Omaha to Chicago?

Q. The rate the same from Lincoln to Chicago as from Omaha to Chicago?

A. No, they are not.

Q. What rates are not the same?

A. Do you mean to say the rates are the same from Lincoln to Chicago as from Omaha to Chicago?

Q. Yes, sir.

A. That is not a fact; we discussed that yesterday about the differentials.

Q. The freight on a carload of grain from Lincoln to Chicago would not be the same as the freight on a carload of grain from Omaha to Chicago?

A. I think the rate on corn from Omaha to Chicago is 19 cents, and from Lincoln 22 cents.

Q. Do you mean to say that on all classes of merchandise the rate would be higher to Lincoln than to Omaha, such shipment coming from the common starting point, Chicago?

A. Yes, that is a fact.

Q. In your experience as a freight agent of railroads,

have you had personally anything to do with the establishing of freight rates?

A. Yes, sir.

Q. And do you think that the same general conditions are taken into account by traffic men to-day that were taken into account by you in your experience?

A. Yes, I think they are.

Q. Now, Mr. Utt, is not one of the important things that is taken into account in establishing freight rates, that of competition, to wit, competing lines?

A. Competition is quite a factor in making rates.

Q. Is not a necessary result of competition that freight rates between points where there exists great competition is less than its per mile between other points where such competition does not exist?

A. Well, not in all cases; the volume of business has a great deal to do with it; for example, competition between points in Colorado, where there is less business, does not make it as low in Colorado as it does further east, where there is more business where there is no competition.

Q. Is it not true that the rate, as an illustration between Chicago and New York, where there are various competing lines of railroads, and also including that of water-ways, that the rate of transportation is much less per mile than it is per mile on any of the roads extending between Chicago and Omaha?

A. The rates on freight per mile are less between New York and Chicago than between Chicago and Omaha.

Q. And is it not also true that between Chicago and Omaha there are four direct competing lines?

A. Yes, sir.

Q. Now, in addition to this question of competition, is there not also taken into account the demand for the class of goods upon which the rate is to be fixed?

A. The demand?

Q. Or, I will add to that, the quantity consumed?

A. The volume of business is a large factor.

By Mr. Woolworth:

That is not what he said.

By Mr. Webster:

Q. What I mean, suppose that as between Omaha and Chicago there should arise a very great demand for coal, thereby increasing the volume of coal shipped, would not that fact be taken into account in establishing the rates on coal, and tend to a reduction of rates.

A. Well, probably not; I think in that case they would take into consideration the entire volume of business.

Q. Well, if that happens to be an unfortunate illustration, I will take another.

A. It would be true the volume of business had considerable to do with the establishing of rates; the more business they had the more revenue they would have, on general business.

Q. That is the resonableness of a rate then, depends upon competition, the volume of business, as well as the

cost of transportation, and other conditions which I need not enumerate in detail?

A. Yes; to a great extent.

Q. Now, in the early history of the state, when competition did not exist as it does today, was it not true that the rates were established with reference to the then existing competition, and therefore, at a much higher rate than they are today?

A. Well, competition in the early history of the state when there were no other roads; I do not see what, in the early history of the state, there was no competition, was there?

Q. I am asking you; didn't you say in your testimony, that in the early history of the state when you didn't have competition by railroads, you fixed a tariff rate so as to be simply in competition with teams; as against teams?

A. Against teams, and the volume of business, and other things were considered as factors in making the rates; they had to have something, of course.

Q. You then proceeded to fix a rate by which you could carry freight cheaper than it could be carried by teams?

By Mr. Woolworth:

You mean the railroad companies, not he, individually?

By Mr. Webster:

Yes, sir.

Q. Such rates you then in your judgment considered reasonable, under the circumstances and conditions then existing?

A. Yes, sir.

Q. After a railroad was completed, so as to create railway competition, then the rates were reduced to meet that new condition?

A. Well, if there was a small amount of business, and another line was built, the railroads might possibly put the rates up, if simply the question of competition existed; it is not the only factor; they have as well to take into consideration the volume of business and their ability to earn money.

Q. Suppose between two points where the volume of business remained the same after the new road was built as before, wasn't the natural tendency of the new road to reduce the rates?

A. Competition is quite a factor.

Q. The reduction of the rate to meet the new competition, you would consider, under those circumstances, to be a reasonable rate?

A. It is according to what the circumstances were.

Q. The circumstances under which the railroads did fix the rates?

A. It would not be proper to make a statement that railroads generally, when two roads are built, at once cut the rates, because they do not; lots of railroads are built without affecting the rate; the Rock Island road built from here to Lincoln without demoralizing the rates, and the rates are not changed; they built to Wilbur and Colorado and the rates are the same; the rates were reduced in Col-

orado from time to time previously, reduced on account of the volume of business.

Q. Are not the rates, when so reduced by the railway companies between competing points, still in your judgment reasonable rates, when so established by the railway companies.

A. Not necessarily.

By Mr. Woolworth:

I tell you what Mr. Webster wants to get at—you have been talking about a country where there is a new road, and another road comes in, and competition springs up between those two roads, what is the effect of that competition, all other conditions remaining the same?

A. The reasonable conclusion is, if there is not much business, the business remaining the same, they simply divide the business, or there might be a rate made for a temporary time, and they might haul their freight for 5 cents when the rate would be $1.00, but the rate would finally be restored.

By Mr. Webster:

Q. I ask you whether or not, in your opinion, the rates fixed by the railway companies, since the growth of competition, such rates being much lower than they were years ago, whether or not such rates when so established by the railway companies, are not within the ordinary signification of the word, reasonable rates?

A. In a general sense, they are.

Q. Now, is it not true, Mr. Utt, that the railway

companies, for the purpose of encouraging some enterprise, or developing some new line of business or industry, would carry freight incident thereto, at a much lower rate, either per mile or by weight, than other merchandise would be carried between the same points?

A. Well, the other merchandise of a different kind.

Q. Yes, certainly.

A. The rates on merchandise are fixed by their value, and the possibility of their being perishable, and the weight and many other conditions that make different rates on different classes of merchandise.

Q. That is drifting from and is foreign to this question.

By Mr. Woolworth:

Call his attention to the question.

A. Yes, they do to some extent; they are based on conditions and circumstances, as I have stated frequently.

Q. And is not the rate on stucco, spoken of in your examination in chief, an illustration of that fact?

A. Yes, sir.

Q. Is it not true, that stucco, for the purpose of developing a new enterprise in this western country, was carried at what would be considered a very low rate?

A. Yes, it is low, but there are these conditions that surround it, that go to make it.

Q. So that stucco is not carried according to its weight, or the expense of hauling it, so much as it is car-

ried on a rate established on account of the existing conditions, to wit: the development of a new industry?

A. Weight and all that are existing conditions; I can explain why stucco is hauled at that rate.

Q. I will let you state that.

A. The B. & M. railroad haul cars through to the Black Hills, and it is carried as return loads, is one reason why they can afford to make the 11-cent rate to Omaha; another thing is they wish to develop that industry there; they have no stucco on their line at other places, and it is being brought in by the Missouri Pacific, and by other lines where the stucco factories are nearer to Omaha, and the cost of production being the same, they make practically the the same rates from where the stucco is made, in order to allow those people to sell their goods.

Q. The result is they carry a carload of stucco a good deal cheaper than they carry a carload of some other kind of merchandise which had no connection with that business?

A. What kind of merchandise?

Q. Any other.

A. They would haul rock, probably, at as low a rate.

Q. If so, is it not because there is a purpose in getting that rock delivered at some other point, equally and of the same kind as that which interests the railway company in the stucco enterprise?

A. Yes; rock is in competition with Colorado, Montana, Ohio, Minnesota, etc.

Q. So, when the rate should be reduced on stucco or

on rock to meet these conditions, it does not follow that the general traffic manager would reduce the rate on all other articles of merchandise?

A. He could not afford to do it.

Q. And is not the same principle also true with reference to lumber shipped in from the southern states over the lines of the Missouri Pacific Railway Company to points in Nebraska?

A. Yes; the Missouri Pacific railroad was built from Arkansas here to do lumber business, and they put it in at the rate that will take a share of the business.

Q. And in doing that, do they give a rate over a longer line of distance than the rate given by other roads carrying in lumber from the northwestern points; that is per mile?

A. No, I don't think they do; the rate from Wisconsin is about the same.

Q. Per mile?

A. Yes, sir.

Q. Is not the distance from the points where the Missouri Pacific gathers its lumber greater than from Omaha to to Wisconsin?

A. No, sir; not to where the timber is; the timber is becoming more remote; I think it is about the same.

Q. Where do they get the timber from?

A. From northern Arkansas and northern Texas, and southwestern Missouri.

Q. Can you state about the percentage of reduction

on freight tariffs on lumber since the Missouri Pacific began carrying lumber from the south into Nebraska?

A. I think the rates on lumber from that territory must be reduced fifty per cent; I do not think the rate on white pine has been reduced more than twenty-five per cent.

Q. Is not the rate on lumber from the northwestern regions since that competition from the south began, also reduced?

A. No; not so much; of course, the rate from Arkansas and that territory was much higher until the Missouri Pacific built in, and when they did build in they made the rates the same as from Wisconsin.

Q. Do you think the rates from Wisconsin are the same they were ten years ago?

A. I stated I thought they were twenty-five per cent less than they were ten years ago.

Q. You do not suppose, do you, that the railway companies, in the carrying of any of these articles of merchandise of which you have spoken, taking stucco as one illustration, stone another, and lumber another, carry them at a rate less than the reasonable cost of the transportation of such articles?

A. Standing alone, I imagine that the rates are too low, but considering the conditions of the trade, they probably make something out of it.

By Mr. Webster:

Read the question.

(Question read.) "You do not suppose, do you, that

the railway companies, in the carrying of any of these articles of merchandise of which you have spoken; taking stucco as one illustration, stone another, and lumber another, carry them at a rate less than the reasonable cost of the transportation of such articles?"

A. All business can not be hauled at that rate; there is a reason why the Missouri Pacific hauls its lumber at such a low rate.

Q. That may all be, but I am asking you a simple, single question, whether that rate which the company now does carry such articles for, does not compensate them for the reasonable cost of their tronsportation?

A. Taking all the conditions into consideration, they consider that the rates that they make on these articles give them revenue; on this lumber and stucco, of course, one point is that they can load the cars of freight very heavily; it is a class of freight you can load the cars very heavy with; take that lumber, it is put into large cars, and they load them very heavy, and that is quite a factor in the question, of course.

Q. In speaking of the cost of transportation of through freight and of local freight, if my memory serves me right, you stated as one of the causes for the increased transportation of local freight, the expenses of making up trains at the starting point, to wit: taking to Lincoln from Omaha, as an illustration, am I right as to that?

A. I do not remember definitely about that.

Q. Is it not true that as a justification for the higher

local rates than the through rate, that the railway companies take into account the cost of making up the local trains at the starting point?

A. Well, I do not know; I do not suppose it is thought of very much, about the cost of making up local trains at the starting point; it is certainly an item of expense, however.

Q. Do you know whether they take into account the question of consumption of coal in supplying the engines?

A. Well, they take into account the expenses in the aggregate of doing business.

Q. You mean to say by that, simply in a general way, that there is some additional expense in the cost of transportation, without definitely stopping to ascertain what it is?

A. On local business as against through business?

Q. Yes, sir.

A. It is considered much larger by everybody; I never heard anything to the contrary; I do not know that a man in making a local rate, would, before he did it, figure that out, the amount of coal; life is too short, they are making rates every few minutes, there is a general expense, and every freight man knows what that expense is without going over it in detail.

Q. I speak of this because I understood you in your examination in chief to go over these items?

A. Perhaps you misunderstood that; I was explaining the difference in the cost of through freight and local freight,

and showing how much more expensive it was to handle local freight than through freight.

Q. You do not know, then, and do not mean to say that the freight agent would take these various things into account in details in fixing the local rate?

A. He would not in detail, in a general way he would.

Q. Is it not true that the ordinary freight agent does not know anything about the cost of transporting a carload or a hundred pounds of any one article of merchandise over any particular distance?

A. That is hardly true; I believe in my experience I was able to give the details and expense of doing such work as I have stated in my evidence.

Q. You believe you could do it?

A. I believe I could state the facts that would allow pretty close conclusions as to what it was; I could not do it definitely.

Q. Do you know Albert Fink?

A. No sir.

Q. Do you know anything about his standing or reputation as a railroad man?

A. I know there used to be a man by the name of Albert Fink in the railroad business, I never met him.

Q. Do you know anything about him?

A. No sir, I do not, particularly.

Q. If he is a man of any great reputation in railroad circles, would you know that fact?

A. I do not know that he knows anything about these

details in the State of Nebraska; I imagine not; he don't know anything about the disabilities in regard to coal. Do you want to know my opinion as to the character of Albert Fink?

Q. If he is a man of any great standing or reputation in railroad circles would you know that fact?

A. Yes, I would; I know Albert Fink was president of a railroad running down from Louisville, and afterwards in New York in railroad service, and I suppose it is a fact that he is a man of ability.

Q. With reference to transportation of corn from points in Nebraska to Chicago, taking Fremont for the starting point, as an illustration, what would be the through rate to Chicago?

A. I think 22 cents.

Q. Now, that is what you call through shipment?

A. Yes, sir.

Q. How is that rate apportioned between the respective roads, the part within the limits of Nebraska, and that part of the road beyond the territory of Nebraska?

A. The line in Nebraska gets forty-five per cent, and the line east fifty-five per cent of the rate.

Q. So that of the 22 cents the Nebraska road from Fremont to Omaha would get more than 9 cents?

A. Yes, sir.

Q. And from Omaha to Chicago would get a little over 12 cents?

A. Yes, sir.

Q. From Fremont to Omaha is how many miles?

A. About fifty, I think.

Q. And from Omaha to Chicago is how many?

A. Five hundred.

Q. Does that apply to all the railroads over which corn might be shipped from Fremont to Chicago?

A. That is the same rate in effect upon all of the roads?

Q. Yes, sir.

A. Yes, sir.

Q. And there would be the same apportionment of the freight, would there?

A. The other route would be the Elkhorn and Northwestern; I suppose that is a fact.

Q. The Northwestern and the Rock Island, the same thing could be done by shipping from Fremont to Omaha, and then over the Burlington?

A. Yes, sir.

Q. Now, what you have stated as to the apportionment of the freight between the line from Fremont to Omaha, and the various railroads from Omaha to Chicago, likewise applies to other articles of merchandise that would be shipped from Fremont to Chicago, does it not?

A. Yes, sir.

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RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Utt, you were asked some questions by Mr. Webster which seemed to be designed to show that your competency as an expert witness was not what I supposed it to be? You say you have been connected with railroad transportation how long?

A. Twenty-two years.

Q. And during that time, has your mind been occupied with questions of the character of those we have been here investigating?

A. Yes, sir; I have been closely identified with these very questions during that time; I have made a study of them, and I think I am fully versed in regard to them and and all the details that apply to this business.

Q. Now, have you been speaking from information communicated to you by the officers or employees of the railroad companies within the last year?

A. No, sir.

Q. Or have your views and opinions and convictions been framed upon what such persons have stated to you?

A. No, sir.

Q. Well, will you state how you derived the information from which you have spoken in this examination?

A. Well, during the most of this time I was general freight agent of different roads, in charge of the freight business of the road, formulated their tariffs, made a close

study of all the conditions that attended the making of tariffs and the business carried by the railroads, not only those I was identified with, but I used all possible means to inform myself on all the conditions and circumstances surrounding and relating to the freight business and the operation of railroads, and have that information on the subject that any one would have of ordinary intelligence, having for a life time, you might say, looked closely into any question of importance like this one.

Q. And while you have been in the employment of the Board of Trade of Lincoln and the Commercial Club of Omaha have the same problems been the subject of your inquiry and study?

A. Yes, it was the same class of business exactly; it was the consideration of freight rates and the conditions that are applied to them; the only difference was I represented the business interests of the manufacturers, jobbers and others when I was connected with the commercial interests of the city instead of representing the freight department of the railroad company.

Q. So that if those two interests, that is to say, the interest of the railroad companies on the one side and the commercial interests on the other side are opposed you have more recently been concerned with the latter rather than the former; is that the case?

A. Yes, sir.

Q. I understood you to say that there is a line of towns west of the Missouri River, such as Fremont and Lin-

coln, to which through rates are made from Chicago, am I right?

A. Yes, sir; the through rates are made to those towns.

Q. And those rates to those towns are made by adding the Missouri River rate from Chicago to an arbitrary or differential rate from the river to those towns; am I right?

A. Well, in one sense, yes, sir; it is a fact that the rates from between Lincoln, Fremont and Beatrice, and a large number of towns between these points, and the Missouri River, are not based on the sum of the rate to the river and from the river, but the rates to those points from Chicago are a certain differential only in excess of the river rates, but are much less than the sum of the two rates based on the river.

Q. Now, is the rate from Chicago through to these towns a divisible rate, that is to say, made up of a rate from Chicago to the river, and another sum added to that to these towns, or is it an indivisible rate charged through from Chicago to one of these towns?

A. It is an indivisible rate.

Q. Now, then, is that rate increased or diminished by the apportionment of the earnings of a line from, say Lincoln to Chicago, made up of, say, the B. & M. and the C. B. & Q., or from Fremont to Chicago, made up of the Union Pacific and the Rock Island?

A. The division of the rates has no effect whatever on the rates.

Q. You mean the division of the rates—

A. Have no effect on the rates themselves, so far as the making of the rates is concerned, the rates are made first, based on conditions, and afterwards divided, based on per cents, and the rates might vary from day to day, but the per cents would remain the same.

Q. And why is it that a larger per cent per mile is allowed to the Nebraska roads than is allowed to the lines east of the river?

A. Because the roads west of the river have less business, and their cost of operation is proportionately greater than the lines east of the river, and these liberal allowances are given them in order to make them self-sustaining; if they were not given, but the through rate was divided on the Missouri River, the line west of the river would be annihilated, because of their lack of earning power.

Q. Could one of them live if it was dependent only upon its earnings on local business?

A. No, sir; they could not live.

Q. Now, I wish to have you explain by some of the instances which have been brought out in this cross-examination how the law of supply and demand affects railroad transportation, and I begin by calling your attention to your statement that the reduction by the Alton of the rate from Kansas City to Chicago affected the rate from Omaha to Chicago? Can you tell me shortly why that action on the part of the Alton affected the rates from Omaha to Chicago?

A. Well, the Chicago & Alton made a low rate for a

term of years in the packing house interests from Kansas City to Chicago. When this was put into effect other railroads running from other points on the Missouri river, including Omaha, Sioux City, Nebraska City, St. Joseph and Atchison, made the same rate between the Missouri River and Chicago that was made between Kansas City and Chicago. This was done for the purpose of protecting the packing house interests at these packing points as against the packing house interests at Kansas City, where there is competition for the hogs and cattle from common territory west of the Missouri river, with the points named, that is Omaha, St. Joe, Nebraska City, etc. If a Kansas City rate on packing house product was less to Chicago than it was from Omaha or other packing points, they would have an advantage in buying this live stock, and, consequently, would secure all the business and other packing houses would be compelled to close their doors.

Q. And the effect of that would be to take all the business from the Chicago & Northwestern it now has?

A. The effect would be that all the lines between these points and Chicago would not carry any packing house product, and that the Alton and other lines, if they made the rates from Kansas City to Chicago, would carry all this large tonnage.

Q. Now, let us take the case of stucco, brought down from the Black Hills by the Burlington at a low rate—stucco from there brought down here to market would be, would it not, in competition with stucco from other points?

A. The competition would be with Blue Rapids, Kansas, on the Missouri Pacific, and Fort Dodge, Iowa, on the lines reaching that point.

Q. Now, it is necessary to get the Black Hills stucco to market at rates as low as the stucco from the other points you have mentioned, is it not?

A. Yes, because the cost of production at each point is about the same, and if the freight rate was considerably higher from the Black Hills to Omaha, although the distance is some greater, why, the commodity from that section would be out of the market.

Q. Now is not the railroad to the Black Hills moved to reduce its rates on stucco to a low figure by the expectation of the growth of a larger business in the future?

A. Certainly, if they can develop the business until it reaches a large volume it will reduce the cost of producing it, and it is very possible they could get a better rate on it.

Q. Is not that one of the greatest inducements which railroad companies have to give low rates to new industries?

A. Yes, it is; it is like everything else, when it starts, it is small, and has to be fostered, and one of the phases involved, of course, is rates that will permit them to get into the market in competition with factories, and perhaps in stucco the volume of business would justify a low rate.

Q. And is it not often the case that when an industry becomes self-supporting and prosperous, that the railroad company increases the rates?

A. Necessarily, that is so; because the cost of produc-

ing the article is one of the first things the railroad takes into consideration, and that is why the rate is so low at present on stucco from the Black Hills to Omaha.

Q. These same considerations entered into the making of low rates on the Missouri Pacific for lumber from Arkansas, did they not?

A. Yes, they made the rate to protect the saw mills on their line, to the extent that they are enabled to place their lumber in this market in competition with lumber from other points.

Q. And the effect of that policy on their part has been to develop a large and profitable business, has it not?

A. Yes, sir; and while at first it was very small, now it has assumed enormous proportions, hundreds of cars annually.

Q. These principles pervade railroad transportation do they not?

A. Yes, sir.

Q. All over the country?

A. Yes, everywhere.

Q. Shipments from the interior of this state to Chicago, for instance, on live stock, are they made with destination to Omaha, or with destination to Chicago, so that the shipper must go through to the one or the other place, as the bill of lading may call for?

A. The live stock is billed through to Chicago with the privilege of stopping at Missouri River packing points; in case the stock is sold there, the way-bill is changed to

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read from point of shipment in Nebraska to South Omaha, and the bill of lading is taken up.

Q. On the other hand, shipments may be made to Omaha and then extended to Chicago?

A. Yes; and the way-bill and bill of lading changed to Chicago, making it an interstate shipment on the contract and way-bill.

Q. Why is this done?

A. To accommodate the stock market; it goes to benefit the two markets; there is very frequently a time when heavy hogs are in demand in Omaha and light hogs in Chicago. If a party has ten car loads of hogs they might sell the kind that was in demand in Omaha at Omaha, and take the others on; the same way with cattle, and by permitting the shipper to have command of all the markets, with their variations, it is a circumstance of great accommodation and profit. Another thing that affects the price of stock is an over supply at a certain date. If there were more cattle and hogs received into market to-day than the packers could buy, the market would decline; in that case, if the market had not also declined in Chicago, the shipper could forward his shipment to that point for disposition.

Q. Ashland being a point on the line of the B. & M. to Lincoln, how many lines of road has that company between Omaha and Ashland?

A. Two lines.

Q. One is called the short line, describe the short line?

A. The short line runs from Omaha by South Omaha

and Gretna to Ashland; the other line goes by way of Oreapolis and Louisville; the short line was built more particularly to accommodate the trade at South Omaha, and for the passenger service, and the grades are somewhat heavier than on the Oreapolis route.

Q. A great deal heavier?

A. Yes, the Oreapolis route is a perfectly level piece of track the entire distance.

Q. Which way does the freight generally go?

A. The heavy trains go by the Oreapolis route.

Q. How does that road compare with the roads of the same company west of Lincoln in respect of grades?

A. Well, the Oreapolis route has lighter grades than west of Lincoln.

Q. After all, does the matter of grades have very much to do with the fixing of rates and determining what are reasonable rates?

A. In the State of Nebraska it does not; in mountain countries where there are very heavy grades it does; but in this state it does not, neither does it in the State of Iowa, or Illinois, or Missouri, or Kansas.

Q. Local rates between Omaha or other river points, and Lincoln, are higher, are they not, than the differentials on shipments from Chicago to Lincoln?

A. Yes, for example, the rate from Chicago to the Missouri River on first class is 75 cents; the rate from Chicago to Lincoln is 80 cents, while the rate from Omaha to Lincoln is 30 cents.

Q. Calling your attention for a moment to your duties as commissioner of the Commercial Club, is it your effort to secure rates more favorable to Omaha than are given to other points similarly circumstanced?

A. No, sir; we have frequently said to the railroads that all we asked was equitable rates; that is rates that do not discriminate against the commerce of this city.

Q. What is the policy of the railroad companies in furnishing to points similarly situated equality of rates?

A. Well, their policy and ours are the same; there is no disposition to discriminate against any city, but in the multiplicity of business affairs there are continually questions arising, and it is necessary, therefore, to be constantly in communication with all the railroads from different points on the different questions as they arise, in which we present the facts as they surround Omaha, and discuss the reasonableness of rates as they should be applied to Omaha as against their application elsewhere, and usually arrive at some satisfactory conclusion as to how the tariff should be distributed.

Q. Attention on the part of every community is necessary in order to secure this at the hands of the railroad companies?

A. Yes, when a certain point argues for some consideration, unless some other point is looking after their interests, the railroad companies might lose sight of them, and might put in a rate that would discriminate against them.

Q. You spoke in your cross-examination of a debate

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that took place at sometime with reference to short lines taking the business in Nebraska, when was that?

A. It was when the railroad officials met in Omaha in July and August, 1893, for the purpose of formulating rates to conform with the tariffs of the Newberry bill; it was contended that the rates were so low that the railroads were forced to adopt the closest economy in conducting their business, therefore, that the long line must in all cases go out of the business and turn it over to the short line, because they could not afford to haul it a long distance at the short line rate, as there was little business in low rates.

Q. Supposing there be a long line, or one road from Omaha to some point in the interior, and a short line, I understand you that the two lines will make the same rate between these termini?

A. No, sir; the lines to Lincoln from Omaha, for example, with the Rock Island and Burlington & Missouri River, because their distance is about the same, fifty-five miles, but the Union Pacific railroad, by way of Valley, and the Elkhorn railroad, by way of Fremont, being long lines, and the Missouri Pacific, by way of Weeping Water, would withdraw from the business and concede it to the two short lines, the Rock Island and Burlington & Missouri River; in the same way the Missouri Pacific railway would do the business between Nebraska City and Falls City.

Q. That is, if the companies adopted the principle of giving to the short lines all the business?

A. Yes; in consequence of the rate being low.

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Q. Suppose the long line, for instance, the Union Pacific to Lincoln, undertakes to do the business at the rate from Omaha to Lincoln fixed by the short line, say the Burlington & Missouri River, what effect does that have upon its rates at intermediate points?

A. According to the long and short haul clause, which is applied to business, it would compel the Union Pacific, at any of these points to not charge a rate that was in excess of the rate to Lincoln; it would reduce their rates to all local points between here and Lincoln to a Lincoln basis.

Q. You say that the rates east of Chicago are less than they are west of Chicago; why is that?

A. Principally because there is a much greater volume of business east.

Q. And the rates east of Chicago have been going down for twenty years, have they not?

A. Rates everywhere decline as the volume of business increases; that has been the history of the railroad rates in the United States.

Q. What, then, was a reasonable rate in Nebraska fifteen years ago would not be a reasonable rate now, would it?

A. Not where there was a large increase in the volume of business.

Q. And what are reasonable rates now would have been unreasonable at that time, would they not?

A. Yes, if the business has increased, that would be a fact.

Q. Now, to determine the reasonableness of a rate, a

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railroad company, or its freight agent, or its manager, or the legislature, or the commission created by the legislature, or anybody else making them, takes into consideration all of the circumstances of the road on which the rates are fixed, does he not?

A. Yes, all the conditions that go to make up a rate must be fully considered before the rates are properly made.

Q. Would a rate be reasonable, no matter whether too high or too low, no matter whether very high or very low, which was not based upon a consideration of all these facts and circumstances?

A. Well, a rate might be too high, and it might be too low; in either case it would not be reasonable.

Q. But leave out, if you will, the question of its being very high or very low, must not its reasonableness be determined by a consideration of all of the facts and circumstances?

A. Yes; if it was too high, or too low, it would be, evidently.

Q. Leave that consideration entirely out, if you will, reasonableness is dependent upon all these circumstances, is it not?

A. Yes, sir; largely.

Adjourned until Tuesday, Dec. 26th, 2 P. M.

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OMAHA, December 26, 1893, 2 P. M.

The further taking of testimony was resumed as follows, viz:

WILLIAM RANDALL, sworn, testified in behalf of complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. You may state your name, age, occupation and place of residence?

A. William Randall; age, 51; occupation, freight and ticket auditor of the B. & M. Railroad in Nebraska; live at 820 Park avenue, Omaha.

Q. Have you made an examination of the books of accounts and records of the B. & M. Railroad Company in Nebraska, in order to prepare yourself to testify in this case?

A. Yes, sir.

Q. Are those books and records in your office?

A. Yes, sir.

Q. What period did your examination cover?

A. The year 1892.

Q. State what were the earnings of the company in that year upon freight shipped between points both of which, that is points of origin and points of destination, were within this state?

To which question counsel for the State Board of Transportation objects for the following reasons: first, it appears from the answer of the witness last above, that he is about

to testify from information derived from an inspection and examination of the books of the railway company, and which books are not present in court; second, that the testimony of an expert as to the voluminous accounts in books is only admissible in cases where the books or records themselves are before the Court, so as to be subject to inspection of accounts by counsel for the opposing party, as well as subject to inspection by the Court; third, that there has been no offer made in this case, either to produce the books or submit them to inspection either of the Court or the opposing party.

A. $1,853,036.59.

Q. What were the operating expenses on this business?

To this question counsel for the State Board of Transportation makes the same objection as last above, and desires that he wishes the same objection to apply to all other questions to which the witness shall give answers based upon information derived from the books and records.

A. Operating alone?

Q. Yes, just the operating expenses, including taxes?

A. $972,183.70

Q. State whether that includes interest on the bonded debt, or any other debt?

A. It does not, it does not include any interest.

Q. State whether or not it includes requirements under the mortgages and sinking fund?

A. No, sir; that is strictly the operating expenses and taxes.

Q. State whether or not the period of which you have spoken was a fair average of five years last past?

A. It was not.

Q. Why?

A. Because the year 1892 was away ahead of anything that we ever saw for traffic, away ahead; all these computations are made on a good year, not on a poor year, but a good year.

Q. How did 1892 compare with 1893?

A. In 1893 we practically have not had any fall trade; when I say fall trade, I mean such as grain, or staple; the comparison was very poor.

Q. How did it compare with 1891?

A. 1891 was not to be compared with 1892; 1891 standing by itself was a fairly good year, but was not up to the standard of 1892.

Q. How was 1890?

A. That was worse than 1891; that was the year when through high winds and drouth we suffered a great deal in our crops; the result was poor business.

Q. What was the cost per ton per mile to the railway company for transportation on Nebraska business, that is business beginning and ending in this state?

A. The cost per ton per mile, the average cost is the only thing we can get at; we cannot get at the actual cost; the average cost is 1.091 cents.

Q. What were the earnings, in 1892, per ton. per mile?

A. 2.079 cents, still in Nebraska.

Q. Which costs the most to the company, local traffic or through traffic, that is to say, traffic for a short distance, or for long distances?

A. Short distances cost the most.

Q. How much?

A. Well, that is an awful hard question; I would have to explain it; I might state my idea as an expert.

Q. Well, state it?

A. I think that short hauls cost double long hauls.

Q. Why is that?

A. Well, that is another hard question, the reason why is like it; do you want me to tell it?

Q. Yes, sir?

A. Take for instance, the haul between Omaha and Lincoln; at both places we have expensive terminals, have of necessity; well, the terminal expenses on a short haul are just as much as they would be on a long haul.

Q. Explain how that is?

A. The original cost of the terminals for one thing—then the operating expenses of the terminals; for instance, switch engines and their crews, yard men, warehouse men, clerks and agents; it costs just as much to make a waybill producing 25 cents as it does to make a waybill producing $25. It costs as much to switch a car at the terminal which produces $10, as a car that produces $100; then take merchandise on short hauls, that has all got to be loaded so

that it can be delivered most conveniently, and at the least cost; whereas long hauls go through without practically any stoppages, the short haul fellow has got to stop at each station and unload and load freight, whereas the through haul has a straight shoot, without any stopping except from necessity, such as for water or to change engines; there is no comparison between the expenses of a long haul and a short haul, it can be very readily understood if you make a comparison between them—a train loaded with short haul freight, as compared with a train loaded with long haul freight; the train doing the short haul business will occupy three times as much time on the road as the long haul train; the long haul train, we will say, goes clear through from the Missouri River to Denver; the short haul train has got to stop at all the different stations to do its business, it has got to do its switching, has got to set out a car, and take up a car, deliver merchandise and take up merchandise; the cost, therefore, I think would be reasonably double the long haul.

Q. What do you say to the item of time?

A. The item of time, that comes in on the pay rolls; the men will occupy a greater time, a great deal longer time in delivering short hauls than they do in delivering long hauls.

Q. What is the average time of a freight train doing local business in this state on the road?

A. Well, I didn't look into that, but I should say ten miles an hour; eight to ten miles an hour on a short haul.

Q. What is it on a long haul?

A. Fifteen miles per hour, but there is not very much of it.

Q. Well, I wish you would explain the matter of doing local interstate business, with reference to carriage, cost, earnings and employees?

A. Practically, there is no difference; it is all done on the same plan; a consignment of merchandise going from Omaha to Hastings, Nebraska, is treated identically the same as a consignment going to San Francisco; that is, it passes through the freight house, it is handled there side by side with the local business, the Hastings consignment and the San Francisco consignment are handled side by side, probably even upon the same truck, and carried out on the platform on the same truck; the chances are it is put into the same train; when that train gets along to Ashland, Nebraska, a consignment from there to San Francisco might possibly be put into the same car with the consignment from Hastings; if it is a carload, the same argument applies. The car has got to be switched to a place to be loaded, no matter whether it is going to Lincoln, Nebraska, or to San Francisco, the switch engineer and crew know no difference and the yard men know no difference; it costs them as much time and as much labor to set out a car to be loaded for Lincoln as for San Francisco; when that car is ready to go, it costs just as much to put that car into the train, whether bound for Lincoln or for San Francisco—just the same—there is no difference; then,

with regard to time, as a general thing local and through freight are carried on the same trains, the only exception to that is when we have enough through business to make up a through train; when we do, of course we take advantage of that and send the train through; when we do not, as is generally the case, we have got to send them in the same train; and for strictly local business, for instance, picking up business going west, for the Pacific coast; or business going east for Chicago, or points east of that, at these local stations, consignments for Omaha and Chicago would probably be put in identically the same car, side by side, and carried to the Missouri River side by side, because we could not possibly get a carload at each place; therefore, we have got to carry them in the same car until we get to a distributing point, or collecting point, so we can make through carloads of them. But within the State of Nebraska local business and through business are done under identically the same conditions and at the same expense. Now, then, with reference to the time; it takes a great deal longer time to do local business than it takes to do through business on the road, because a local train, as I previously explained, has got to stop every eight or ten miles; it has got to switch to set out its cars, either for loading or unloading, and has got to run its way-freight cars to the platform so that the warehouse freight can be unloaded into the warehouse, whereas there is no such work entailed on the through business.

Q. What is the minimum charge of your company on small consignments for short distances?

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A. Twenty-five cents.

Q. Can you give me the minimum of shipments in 1892 from points not far distant from one another, and for small sums, and tell me the rates which are allowed by this law on such shipments?

A. Yes, sir; on June 27th, on waybill No. 55, from Crab Orchard to Omaha, we carried a consignment weighing twelve pounds, on which we got 25 cents, our present minimum; the law does not allow any minimum, the law says that all freight must be carried at actual weight, the rate on the consignment in question was 16 cents per hundred, twelve pounds at 16 cents per hundred figures out 1.9 cents, not enough to pay for the paper in the waybill.

Q. You have not told the distance between those two points?

A. I would have to look that up.

By Mr. Webster:

I would like to know how you know what it amounts to if you do not know the distance, if the rate is 16 cents?

A. I could not tell you from this record what the distance is, but I could look it up and tell. On June 27th, waybill No. 150, from Crawford to Adelia, we carried a consignment weighing ten pounds, on which we got twenty-five cents; the law allows 16 cents per hundred, or 1.6 cents for the consignment. On June 22nd, waybill No. 76, from Juniata to Kenesaw, we carried a consignment weighing eight pounds, on which we got 25 cents; the law allows 7.4 cents per hundred, or 6-10 of one cent for the consign-

ment. Now, I will give you one more—June 11th, waybill No. 30, from Lanham to Lincoln, we carried a consignment weighing ten pounds, for which we got 25 cents; the law allows 17 cents per hundred, or 1.7 cents for the consignment.

Q. By what name is the classification known under which you do business, and have done business for the last five years?

A. The western classification.

Q. What is the meaning of that?

A. It applies to all this western country.

Q. Is it the classification which has been agreed upon by all the railroads in the west?

A. Yes, sir; in this western country.

Q. What do you mean by "western country", from what point?

A. Well, say from Chicago west.

Q. How does that classification agree with the classification made by the act under consideration?

A. A great many differences; it does not agree at all, is the proper answer to the question, probably.

CROSS EXAMINATION.

By Mr. Webster:

Q. What are your duties as freight and ticket auditor?

A. To take care of all traffic accounts.

Q. You have nothing to do with the fixing of the cost of transportation, have you?

A. No, sir.

Q. You have nothing to do with the establishment of freight rates, have you?

A. No, sir.

Q. And you are not the auditor of the accounts relating to the maintenance of the road, or of construction accounts, are you?

A. No, sir.

Q. What books of accounts were examined by you preliminary to the giving of this testimony upon which you based your answer stating the amount of earnings on shipments, the termini of which were within the limits of this state?

A. The waybills themselves, the waybills on which the freight was carried.

Q. When you stated the amount of the earnings you spoke of the year 1892, did you not?

A. Yes, sir.

Q. Do you mean to say that you, personally, examined all of the way bills covering all shipments over the line of the road, the termini of which were within the State of Nebraska?

A. No, sir.

Q. Do you mean to say that anybody made such an examination?

A. Any one man?

Q. Yes, sir?

A. No, sir.

Q. Well, then, explain how you were enabled to make this statement that you have made as to the amount of earnings based upon the waybills, which were not examined by you and not examined by any one man?

A. Well, they were examined by a number of men, each one contributing his quota to the general result.

Q. These men who made these examinations have not been examined here as witnesses, have they, so far as you know?

A. No; not so far as I know.

Q. Have you with you in the court room the computations made by these respective persons?

A. I have the results of them, but not the figures made by each individual man; they are in the B. & M. headquarters.

Q. Who took the results of these several men and added them together to make the total?

A. The man in charge of the job, under my immediate supervision.

Q. Then that was not you?

A. No, it was not me.

Q. So that you personally, did not even add together the sums these certain persons reported to get the total?

A. Well, that is getting down to a pretty fine point, you know. I could not answer that question, yes or no.

Q. Did not you state a moment ago this adding together was done by another person in your office under your direction?

A. Under my direction is the proper answer.

Q. The fact is, it was done by another man, and not by you?

A. Yes, sir.

Q. Who is that other man?

A. R. W. Taylor.

Q. Now, then, what you have testified to is what was the results of that computation as made by Mr. Taylor?

A. Yes, sir.

Q. Now, have you in your personal custody the computation that was made by Mr. Taylor?

A. Yes, all of it, clear down to the waybills themselves, as I told you.

Q. And where are they?

A. Down in my office.

Q. No part of them are present here so that I may be permitted to inspect them?

A. No, sir.

Q. And the computations made by these respective persons, who examined the waybills and made the accounts therefrom, are not here so as to be subjected to my inspection with a view to cross-examination, or otherwise, are they?

A. No, sir.

Q. So, then, Mr. Randall, you did not yourself undertake to verify the correctness of the computations made by the respective persons who examined the waybills?

A. No.

Q. Can you state how many different persons were engaged in this work of examining the waybills?

A. Well, a minimum of five and a maximum of twenty.

Q. And did each of these persons, varying from five to twenty persons, make a report of their respective computations?

A. Yes, sir.

Q. Those reports you do not have with you?

A. No, sir; they are down in the general office.

Q. In the statement that you gave of the earnings on shipments between points, the termini of which were within the State of Nebraska, stating the amount to be $1,853,-036.59, that does not include money earned by your company for the transportation of freight received within the state going to a point beyond its limits, or earned by your company coming from a point outside the state and delivered at a point within the state?

A. No, sir.

Q. Can you state the earnings of your road, to wit, the entire mileage of your road, for transportation within the state, by which I mean, the sum total of the earnings of your road for freight carried upon the mileage of your road within the State of Nebraska?

A. I do not know that.

Q. Have you any record in your office from which you could ascertain the sum total of the earnings of your road for freight carried within the State of Nebraska?

A. Yes, sir.

Q. How long would it take you to prepare yourself to answer as to the amount of such earnings?

A. That is an awful hard question.

Q. Approximately?

A. It entails a tremendous amount of labor to be able to state what the B. & M. earnings are on freight within the State of Nebraska.

Q. Well, the amount of such earnings for 1892 were immense in amount?

A. They were, comparatively.

Q. While you were going through the transaction of having a computation made of the earnings on shipments between points, the termini of which were within the state, you did not have your men also undertake to make any computation of earnings upon other shipments?

A. No, sir.

Q. Why was that; because you were so instructed?

A. Well, I guess it was largely because of the magnitude of the work, the expense of it; I don't remember the instructions; I cannot say whether I was instructed or not; I simply did not do it.

Q. Now, as to the cost of transportation, or in other words, the operating expenses of carrying this freight between termini within the limits of the State of Nebraska; was that computation made after a fashion similar to that you have stated before as to the earnings?

A. Just on about the same plan.

Q. Now, is it also true, Mr. Randall, that you do not have here any of the statements from which was computed the sum total, or result, of the operating expenses for such shipments.

A. It is true; they are all down in the headquarters.

Q. Then it amounts to this, does it not, Mr. Randall, that you have no personal knowledge of the cost of these operating expenses other than such as you obtained by being the auditor, and having this computation made by subordinates, and the sum total of which reported or presented to you by them, and from which record or reports you base your opinion, and give your testimony?

A. That is true.

Q. You then, do not know of your own personal knowledge, Mr. Randall, whether in this sum total, representing operating expenses, there was or was not included taxes?

A. O, yes.

Q. Now, how do you know that?

A. Well, how do I know that any shipment was made at all?

Q. I do not know?

A. Well, I am going to tell you; when a shipment of a car of wheat is made from Hastings, Nebraska, to Lincoln, I don't see the car, the actual car, but I get the waybill in my office for the carrying of it, and I take it for granted that the wheat has been carried.

Q. Now, what I asked you was about the question of

taxes, whether you had any personal knowledge of whether taxes were included in this statement?

A. The taxes were on the same plan as the way-bills, that is what I referred to.

Q. By that all you can know, and all you mean to say, is that the tax receipts or tax vouchers are on file in the railway office?

A. The waybills represent the earnings, and the vouchers represent expenses, and all of them are on file in the office.

Q. I am talking about taxes; were these tax receipts or vouchers on file in your office?

A. On file in the B. & M. headquarters.

Q. Not in your office?

A. In my particular room? My room would not hold half of them; they are on file in a vault down there.

Q. Is it not true that the question of payment of taxes does not belong to your office?

A. That question goes through the auditor's department.

Q. That is not your department, is it?

A. No, sir.

Q. What I was getting at is this: How do you know, personally, that these subordinate officers that made to you this report counted in or did not count in the taxes?

A. That is an awful hard question; if I did not believe anything, you know, I would not be any good.

Q. I have no doubt you believed them; I am asking you what personal knowledge you have?

A. Whether or not they did not include the taxes? Well, it is not so reported.

Q. Then, that is the extent of your knowledge about that?

A. Yes, sir.

Q. Do you know of any way, Mr. Randall, that you could subdivide the taxes, so as to know what part, if any, of the taxes, belonged to the cost of operating the road in the transportation of local freight between points, the termini of which are in the state, and what part is apportioned to interstate shipments?

A. No, I don't believe that is known.

Q. Don't you know that is an utter impossibility?

A. I believe I do; that is, so far as I know, it would be an utter impossibility.

Q. If those were included in this statement of $972,183.70, as the cost of carrying the local shipments, about which you have testified, must you not, then, have included in that $972,183.70 all of the taxes upon the road assessed within the limits of the State of Nebraska?

A. No.

Q. If you cannot subdivide the taxes and apportion them, and they were not all included, what part was omitted?

A. The part that did not belong there.

Q. What part belonged to shipments within the state and what part did not belong to such shipments?

A. You want to confine yourself to taxes; that opens a big question.

Q. I will confine myself to taxes now?

A. The answer to that applies to other expenses as well as taxes; all that can be gotten at is a fair average estimate; it is impossible to locate taxes on freight business done strictly within Nebraska; it is an impossibility; there are other expenses just in the same way.

Q. Now, I have thought as much as that, Mr. Randall; now let us inquire about some of these other expenses, for instance the wear and tear of cars and engines; are those items or matters taken into account by you in stating the cost of operation in carrying this local freight?

A. Yes, sir.

Q. Now, is it not true that the same cars which haul the local freight are engaged in hauling through freight?

A. Yes, very frequently.

Q. And is it not frequently true that the same car is hauling through freight as a part of its load while carrying local freight; in other words, through freight and local freight are frequently placed in the same car?

A. Yes, not always, but frequently.

Q. At other times, a car used in local freight to-day may be to-morrow employed in carrying through freight?

A. Yes, sir.

Q. And the same thing applies to engines, does it not?

A. Yes, sir.

Q. And the train men and crew may be employed in handling through and local freight at the same time?

A. Yes, sir.

Q. In the same train?

A. Yes, sir.

Q. And at other times they may be in charge of a train handling through freight almost entirely?

A. Yes, sir.

Q. So there is no possible way of separating the operating expenses to ascertain with precision the cost of carrying freight between points, the termini of which are within the state, or the cost of all the operating expenses for your entire traffic business, is there?

A. I have not discovered any means.

Q. It follows then, does it not, that this answer of yours as to the cost of operating expenses for transportation of local freight is but an approximation?

A. An approximation based on experience, of course.

Q. Now, have you prepared any statement, or have you a statement showing the entire operating expenses of your road within the limits of the State of Nebraska?

A. The entire operating expenses within the limits of Nebraska?

Q. Yes, sir?

A. Yes, I believe I have.

Q. Have you such statement with you?

A. I believe I have; do you want to see it?

Q. I would like to.

A. It is more of the nature of a memorandum. The operating expenses in the State of Nebraska for the year 1892 were $6,045,965.21.

Q. From what do you give that statement?

A. From the report made to me.

Q. Report made to you by whom?

A. The auditor's department.

Q. Who is the auditor referred to?

A. Mr. J. G. Taylor.

Q. So all you know then about that subject matter is what is found in that report?

A. Yes, sir.

Q. From the inspection of that report, can you tell whether that included the operating expenses for the transportation of passengers as well as freight traffic?

A. It included the operation of passengers as well as freight?

Q. And it so recites in the report.

A. Yes, sir.

Q. Does that include taxes?

A. No, operating expenses only.

Q. Will you allow me to see the report from which you give these answers?

A. Yes, sir.

Q. This purported report which you show me in answer to my question does not seem to be signed by anybody, does it?

A. I do not know.

Q. Is it not simply an impressioned copy from some typewritten document that has nothing to show its authenticity.

A. I don't know whether you would call it that or not.

Q. Can you tell from inspection whether it is an impression from some typewritten document?

A. It is; I know where I got it.

Q. And is it not also true that it is not signed by anybody?

A. It is not signed by anyone.

Q. Now, who delivered that to you?

A. The identical man.

Q. Taylor?

A. Mr. Taylor's assistant.

Q. Now, your answer as to the total cost of operating expenses is based simply upon that document, or paper, as you have now described it; none of the computations found in that impressioned copy of that typewritten document I understand, were either made by you or under your personal direction?

A. The results were worked up from that.

Q. What do you mean by that remark?

A. The results I have just given you.

Q. The results you just gave me were worked up from that document?

A. That is right.

Q. Now, you stated that the cost per ton, per mile, of Nebraska business was about 1.091 cents per mile?

A. Yes, sir.

Q. Now, who made that computation?

A. I did.

Q. State how you made it?

A. By dividing the cost by the number of tons carried one mile.

Q. Now in that did you take as a basis of your computation the sum of $972,183.70, heretofore stated by you as the total of operating expenses on such business?

A. On what business?

Q. That is, upon the local business between points the termini of which were in the state?

A. Yes, sir.

Q. And divided that by the number of tons hauled?

A. Yes, sir.

Q. So that in the first instance, if your statement of the amount of operating expenses should not be accurate, your cost per ton per mile would not be accurate?

A. No.

Q. Now, I observe that so far you have not stated the number of tons of freight that were so hauled, have you?

A. No, sir.

Q. Now, did you personally ever make any computation of the number of tons of local freight so hauled?

A. Yes, sir.

Q. How did you proceed to make a computation?

A. From reports made to me.

Q. And who made these reports to you?

A. The men that were working upon the question as to how many tons were hauled.

Q. Well, then, do you mean by that there were a number of different men at work examining the waybills to find out the number of tons that were hauled, and that the summary of their reports were made to you?

A. Yes, sir.

Q. Now, then, was this final adding together, or the arriving at the sum total of these respective reports made by you or some person under you, subject to your direction?

A. Some persons under me subject to my direction.

Q. So then, as a matter of fact, all this matter of accounting and computation was done by some other persons, subject to your direction perhaps, but subordinate to you?

A. Yes, sir.

Q. Then it was not done by you in person?

A. Not in person, no; if it had been it would have taken me, I think, about a year to be able to testify; the figures are correct and can be verified by the men who made them, if necessary.

Q. Now, what you have stated as to the cost of the transportation of each ton of freight, per mile, would apply with like force as to the amount of earnings upon each ton per mile, that is to say, the result was arrived at by the same process of computation?

A. Yes, by the same process.

Q. Calling your attention to your statement as to the tariff charged for small articles, or small consignments for short distances, what memorandum was it that was used by you, if any, in giving your answer to those questions?

A. From a memoranda from the waybills.

Q. Have you that memoranda with you in the room?

A. I have.

Q. Will you allow me to see the memoranda from which you testified?

A. Yes, sir.

Q. Taking this memoranda, will you state to me who prepared this memoranda?

A. The name of the clerk?

Q. Yes, sir.

A. Yes, it is a young man by the name of Robert Larimer.

Q. This memoranda then was not prepared by you?

A. Not by me personally; that is an extract from the waybills.

Q. I see on this memoranda the following: June 27, 1892, waybill No. 55, from Crab Orchard to Omaha, weight 12 pounds, present minimum charge 25 cents, allowed by law rate 16 cents, amount 1.9 cents, and let me ask you, Mr. Randall, would that entry, "present minimum charge 25 cents", appear on the waybill, too?

A. Would 25 cents appear on the waybill? Yes, sir.

Q. Would the words "present minimum charge" appear on the waybill?

A. No, sir; simply the weight allow and 25 cents, after giving a description of the articles.

Q. The entry in this memoranda, "weight by law 16 cents", is not taken from the waybill?

A. No, sir; it is taken from the law; it is taken from that book in your hand.

Q. Do you mean your clerk who made the extract from the waybill also made this extract from the law?

A. Yes, sir.

By Mr. Woolworth:

Q. Did not make an extract from the law, but made a computation from the law?

A. Yes, sir.

By Mr. Webster:

Q. So that the amount of 1.9 cents was a computation made from the law and not from the waybill?

A. That was a computation made from the tariff set forth by the law.

Q. So the testimony that you have given as to the respective shipments between these short distances in Nebraska, were statements made by you from this memoranda which you then held in your hand, but which memoranda was made by some clerk, and not by yourself?

A. Yes, that is right.

Q. And the computations set down on that memoranda were also made by the said clerk, and not by yourself?

A. Yes, sir.

Q. Now, are you able yourself to turn to and call my

attention to the provision in the law from which your clerk made the entry touching that first waybill from Crab Orchard to Omaha, rate 16 cents?

A. If I had a chart of the distances so I could tell the distance between the different points I could, but without that chart I could not; I could get the information.

Q. And does it not follow that if you do not know the distances between the respective points set down in the memoranda, you could not answer whether this statement was correct or not?

A. No, sir.

Q. Without having a table of the distances before you, you could not tell whether the figures set down in the memoranda, under the column "rate allowed by law," would be correct or not?

A. No, I have to take other men's word for it, but I have no reason to doubt them.

Q. No, nor have I; nor no special reason to believe him, because I don't know anything about him or his computation; so what you have stated as to your knowledge regarding the first entry in this memoranda from Crab Orchard to Omaha would apply equally well to each of the other memoranda testified to by you in chief?

A. Yes, sir.

Q. Well, another question; will you produce for our inspection and examination all the data and memoranda from which was computed the earnings on shipments between points the termini of which were in the State of Ne-

braska; likewise, the data from which was computed and arrived at the statement of cost of operating expenses in connection with such shipments, at some convenient time within a reasonable date?

A. I do not know any reason why it should not be produced; it is all there in the headquarters.

Q. Well, that does not answer my question?

A. If there is no objection, I am perfectly ready and willing to produce it.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Randall, did you verify the items contained in the tables made by Mr. Larimer, from which you have spoken, and to which your attention has just been directed?

A. I did not, personally; I would like to explain that.

Q. Explain it.

A. I would like to say that all our work is verified, every bit of it; that is, it is done by one man, and verified by another, but it is a matter of impossibility for me to verify everything myself; I could not do it; I can supervise the verifying of it, but I could not do it all myself, nor could any ten men.

Q. When you say you supervised it, tell us just what you did?

A. Well, I examined the figures presented in that memoranda and I found them to be correct on its face.

Q. You did not look at the distance chart to see what the distances were?

A. I did not look at the distance chart to see what the distances were at the given points, nor did I look at the waybills to see that these identical points appeared on the waybill, but other men did; they compared them, and checked the distances, and also checked the waybills to see that the identical consignment set forth was on that waybill.

Q. I will ask you to bring us the waybills from which this table was made, and the chart showing the distances between the different places?

A. Yes, sir.

Q. You say that you have apportioned the taxes between the local and the through freight, and have you done so between the different kinds of business, passenger and freight, as well as through and local, and other like items?

A. Yes, it could not be a fair apportionment if I had not.

Q. On what basis was it that you made the apportionment of taxes to local and through business?

A. I found that the earnings on the business within Nebraska, that is the termini of which are within the State of Nebraska, was 21.27 per cent.

Q. Of what?

A. Of the earnings.

Q. Of all the earnings?

A. Of all the earnings; I therefore applied the 21.27 per cent. to the expenses; I reasoned thus, that if that

business consisted of 21.27 per cent of all the earnings, that it was reasonable to tax it 21.27 per cent of the expenses. I could not see any other way of assigning the expenses to the business the termini of which was in Nebraska.

Q. Well, you say you did not make an examination to find out, mathemetically the amount of business done in this state?

A. Irrespective of the termini being in this state, I did not.

Q. How did you reach that point, if you did not reach it mathematically, and by an examination; tell us how you reached the aggregate amount of business in the state, as well as that beginning or ending in the state and coming from or destined to other states, as that which began and ended in the state?

A. Do you want a full description of it?

Q. Yes, tell us just how you reached these results?

A. How I reached the amount of $1,853,036.59, on business the termini of which was in Nebraska?

Q. Yes, that is not exactly the question, but that will bring you to the matter I want.

A. I took two months in the year 1892, the months of June and September, being two good representative months; and I found that of the whole business in June and September, the business with its termini in Nebraska amounted to 21.27 per cent of the whole earnings in June and September. I therefore applied that 21.27 per cent to the whole earnings, to arrive at the $1,853,036.59 stated by me as the

earnings that we made on business with its termini in Nebraska.

Q. And how did you get in the examination, for instance, the month of June, how did you reach the result, by what method of examination?

A. I took all the waybills for freight carried between points in Nebraska, and I found that the earnings on that amount, as I say, were 21.27 per cent of the whole.

Q. Did you personally get at these waybills for that amount?

A. I did not.

Q. Who did?

A. Well, there was quite a large force on that job, from five to ten working on it all the time; it was a big job.

Q. How long did it take?

A. Took us pretty near a week; about five days.

Q. Now, how were these waybills for the business in Nebraska gotten at?

A. How were they gotten at?

Q. Yes, did you take all the whole body of waybills for the month in the first place?

A. Yes, sir.

Q. And then what did you do?

A. Picked out the Nebraska waybills.

Q. Now, was that done under your observation?

A. Yes, on this plan; one man went through and picked them out, another came after him to see that he had taken them all; that is what I mean by verifying the work.

Q. Did you overlook this work as it went on?

A. Yes, it went on under my personal supervision.

Q. What memoranda were taken by these persons as they made the examination of these waybills?

A. The amount of the totals of the waybills, the total cash column of the waybills.

Q. Was that done under your observation?

A. It was.

Q. Then the totals of all the waybills were added together were they?

A. Yes, sir.

Q. Was that done under your observation.

A. Yes, sir.

Q. Can you state whether the result was correct?

A. I could not state from footing the amounts personally that it was, but I can state it from the fact that the work was done and verified; the footings made by one man and checked by another.

Q. You have those footings, have you?

A. Yes, sir: we have the figures as taken from the waybills, and anybody can examine them.

Q. Was the same done for September?

A. Yes, sir.

Q. Why did you select those two months, June and September?

A. Well, I selected the two months because I thought they were two representative months, one representing what

you may call the non-grain and stock period, and the other representing the grain and stock period of the year.

Q. Which represented the one and which the other?

A. June and September, June representing what you might call the non-grain period, and September the grain period.

Q. How do the earnings of those two months compare with the earnings of the other months of that year, as the aggregates of each month were ascertained?

A. I think they make a very reasonable comparison. Did you want me to give the figures?

Q. Yes, sir.

A. In June we earned $714,631.85.

Q. That was what business?

A. On freight.

Q. Freight on what lines?

A. On the B. & M. west of the Missouri River.

Q. What lines did that cover?

A. All lines west of the Missouri River.

Q. That included the lines in this state?

A. Yes, sir.

Q. Did it include lines outside of this state?

A. Yes, sir.

Q. What lines outside of this state?

A. It included everything we own outside of the state.

Q. What are they, name them outside of the state?

A. Our lines in Kansas, our lines in Colorado, in South Dakota and Wyoming.

Q. And that included the interstate business as well as the local business, did it not?

A. Yes, sir.

Q. Now, you may go on and speak of other months.

A. Well, in September we earned $873,747.21; the total we earned for the year was $8,711,972.69.

Q, Well, how did you apportion part of that to the local business in this state, state the process of your calculation?

A. The earnings I have just given you for the month of June and September amounted to $1,588,379.06. The earnings for these two months on business with its termini in Nebraska amounted to $337,911.96, or 21.27 per cent of the whole amount earned; applying the same percentage to the whole amount earned for the year would give the earnings on business in Nebraska, that is, with its terimini in Nebraska, $1,853,036.59, as I previously stated.

Q. Now, did you examine the vouchers for the expenses?

A. Personally?

Q. Yes, sir.

A. No.

Q, Did you examine the tax receipts?

A. No.

Q. How were those figures made up?

A. The same percentage was applied, 21.27 to get at the cost.

Q. The same percentage of the whole amount of the vouchers?

A. No, to the expenses in Nebraska.

Q. You mean by that, then, that you ascertained what part of the sum of the vouchers for operating expenses was applicable to local business by taking this per cent?

A. By taking that per cent; yes, sir.

Q. And the aggregate of those vouchers was furnished you by some persons who had examined them, were they?

A. Yes, sir.

Q. And the same is true of the receipts, is it?

A. Yes, the same is true of the receipts.

Q. Now, it is true, is it not, that it is impossible to make an exact apportionment of the cost between the passenger and the freight business?

A. It is impossible to do it so far as has been discovered.

Q. On what basis, or by what calculation did you make that?

A. I assigned seventy per cent to freight.

Q. And thirty to passenger?

A. Yes, thirty to passenger.

Q. Why did you make that apportionment between freight and passenger?

A. Because, from my experience of railroad business I think it is fair and just.

Q. Well, what is your experience in a matter of that sort?

A. Well, it is pretty wide, that is a long story.

Q. Well, go on, and give us the story?

A. The comparison between doing passenger business and freight business is very great; we do not make any record of the passenger; we simply sell them a ticket, and we draw up our passenger train aside of the depot and holler all aboard, and if he don't get on he gets left; the stopping and starting of a passenger train is a small matter as compared with freight; after it gets away from the depot it is a difficult matter to stop a freight train, as compared with a passenger train; when we get to the depot we again announce where we are, and the passenger gets off, and walks away, but when we get a box of dry goods, we have got to make a waybill for it, that waybill has got to state who we got it from, and who we are going to deliver it to, and a description of the goods, besides the weight, the rate and the charges; that is an expensive thing as compared with selling a ticket; then we have got to put a box of dry goods on a track and wheel it along and put it in the car—the passenger steps on the train himself, don't have to lift him in, but we have with the goods; we have to have the goods assorted in the car, so that we can deliver it readily; we cannot throw the goods promiscuously in the car as we go along, they have got to be very carefully sorted out at the starting point. When the train gets started, it runs slowly, and takes lots of time; has to stop at a certain point in order to deliver the freight at a warehouse; in case of carload freight, we have got to switch the car into

the train, and got to switch the car out of the train; we don't have to do any such thing with the passenger, he goes out himself; then the wear and tear of a freight train going along the road is so much more than a passenger train; the whole thing conduces to a great deal more expense on freight than it does on passenger; I do not think that the expense of conducting and operating passenger business is to be compared to the expense of operating freight. Take the terminals here in Omaha, what are these extensive yards kept for? Not for doing passenger business, certainly; they are kept for doing freight business; take the office, the staff of clerks; take the warehouse, the staff of men, as compared with the passenger business, there is no comparison at all, and I think that a correct apportionment is seventy per cent of all expenses to freight; there is a certain class of expense, such as taxes, that cannot be reasonably apportioned, that is, that cannot be accurately apportioned, as the passenger and freight, any more than they can be as between business in Nebraska and business outside of it. The same difficulty is encountered when you go to assign the expenses to freight, and it is only expert knowledge that enables a man to tell what ought to be done.

Q. How long have you been engaged in this business?

A. I have been engaged in it all my life, since I was 15 years old.

Q. And how long have you been the freight auditor down here?

A. About ten years.

Q. What were you before that?

A. I was chief clerk in charge of the traffic accounts, r another ten years.

Q. During those two periods of time, say twenty years, as your attention been directed to this matter of apportionent of expenses between freight and passenger business?

A. Very frequently; it is a thing that crops out regurly.

Q. What is the result of your experience and observaon, and study?

A. Just as I have allowed these expenses.

Q. Your services during the twenty years has been on he B. & M.?

A. Yes, strictly in Nebraska.

Q. What is the mileage of the company in Nebraska?

A. 2,250, or thereabouts.

Q. And how much does the whole system include?

A. West of the Missouri River, 3,300 or thereabouts.

Q. Can you state any other method, or any other basis or apportioning the local and through business than that ou have given?

A. I do not know of any other.

Q. I mean the cost of the local and through business?

A. I do not know of any other.

Q. That, I understand you to say is upon the earnings of the two classes of business?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By Mr. Webster:

Q. In the apportioning of the cost of operating expenses between the freight and passenger business, you do not make such apportionment based upon the income of the two different kinds of business?

A. The seventy per cent. allowed to freight?

Q. Yes, sir?

A. No; well, it is not so very far from it, but it is not based on that.

Q. So then, if you were to take the entire amount of the earnings of the road, and undertake to apportion it between the freight and passenger, you would not reach the same result?

A. Very close.

Q. That is not what I asked you; I said you would not reach the same result?

A. Not absolutely the same.

Q. In your way of apportioning the operating expenses, you simply take into account the conditions, and give your judgment as to the proportionate part which should be left to freight traffic, and the proportionate part which should be left to passenger traffic, do you not?

A. Yes, sir.

Q. You did, however, or can ascertain the whole amount of revenue from the passenger department, just as well as you can ascertain the revenue from the freight department?

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A. Yes, sir.

Q. Now, have you the earnings for the passenger department of the lines west of the Missouri River?

A. For what period?

Q. I will have you put it the same period of time in which you gave the earnings for the freight department, the year 1892?

A. Yes, sir.

Q. Will you state what that is?

A. The passenger business for the whole road west of the Missouri River for the year 1892 earned $2,893,747.38.

Q. That made a total of about $11,600,000 earnings for the freight and passenger department?

A. Yes, sir.

Q. Now, when you stated that certain of these computations were made in your office, under your supervision, you did not mean to say that that work was done at a place or in a manner that you were constantly observing the computations of each one of these five or six men engaged in that work, to know whether it was done right or not?

A. Constantly observing it; yes, sir; more or less.

Q. More or less; that is an important thing?

A. Yes, sir.

Q. All these men were not engaged at work on these waybills in the same room in which you kept your desk, were they?

A. No, sir.

Q. And the waybills were not brought into the room in which you kept your desk and did your work, were they?

A. No, sir.

Q. And you have a room in which is a desk at which you perform your labors, have you not?

A. Yes, sir.

Q. And this work was done by subordinates in another room, or different rooms, was it not?

A. Yes, sir.

Q. And when you say it was done under your supervision, you mean it was done in the manner and in the general way you directed it should be done?

A. Well, a little more than that; I am not understood to be confined to my room; I am around all the time supervising.

Q. And by that you mean that sometimes you looked into the room where they were, and saw them at work?

A. Yes, probably went further than that; looked at what they were doing, and whether they were doing it correctly or not.

Q. You had a good deal of other work during those five or six days, did you not?

A. Yes, for instance, they are at work now, and I am up here.

Q. A half a mile away?

A. Yes, sir.

Q. And yet you understand what they are doing

down there; they are doing it under your supervision and direction?

A. Yes, sir.

Q. And that is a fair sample of the way these computations and accounts were made up?

A. No, because what they do will pass under my eye eventually.

Q. And then the final computation passed under your eye in the same way?

A. Yes, sir.

Q. And from that you have testified as to what took place?

A. Yes, sir.

Q. Have you with you a tabulated statement of the freight earnings for the remaining months of the year, you have already given for the months of September and June?

A. Yes, sir; I have for the whole system west of the Missouri River.

Q. Have you such a table for the passenger earnings on the lines west of the Missouri River?

A. Yes, sir.

Q. Those are tables arrived at in the manner in which you have heretofore stated the earnings for June and September were arrived at?

A. Yes, sir; on the whole road west of the Missouri River.

Q. Then I would like to have you produce and attach to your deposition, as a part of it, the copies of these tables

to which you have referred, the freight earnings for the entire year of 1892, tabulated by the month, and also for the passenger earnings for the same time, on the lines west of the Missouri River?

A. Yes, sir; you wanted to know if those tables were gotten up in the same manner as the other statements were?

By Mr. Woolworth:

Q. That is the statements for June and September?

A. The statements for June and September—no, sir; they were not gotten up in the same way; do you want me to describe the difference?

By Mr. Webster:

Q. I don't know that I care anything about it; what I have asked you for is the earnings for 1892.

A. 1892—yes, sir.

Adjourned until 2 P. M.

OMAHA, Dec. 27, 1893, 2:00 P. M.

The further taking of testimony was resumed, pursuant to adjournment, as follows, viz.:

JAMES G. TAYLOR, sworn, testified in behalf of complainants, as follows, viz.:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. What is your name, age, occupation and residence?

A. James G. Taylor; age, 42; auditor and assistant

treasurer of the B. & M. railroad in Nebraska, and residence, Omaha, Nebraska.

Q. How long have you been assistant treasurer of the Burlington & Missouri River Railroad Company in Nebraska?

A. About nineteen years.

Q. How long have you been auditor?

A. I believe four years.

Q. You spoke of the B. & M. railroad, meaning, I suppose, the Burlington & Missouri River Railroad Company in Nebraska?

A. Yes, sir.

Q. What relation has that to the C. B. & Q.?

A. It is the Trans-Missouri Division.

Q. Owned by the C. B. & Q.?

A. Yes; yes, sir.

Q. For what purpose is its name used, Burlington & Missouri River Railroad Company in Nebraska?

A. I presume to meet the requirements of the original charter.

Q. What companies form the system of the Burlington & Missouri River Railroad Company in Nebraska, I wish you also to state the termini of each road and the number of miles in each road?

A. I have here a list which I would like to submit; I cannot quote them from memory, there are several of them.

By Mr. Webster:

This may go in as his answer, this paper showing each line and its termini.

By the Witness:

I present this memorandum of these roads, and ask it to be attached to my deposition as my answer to that question.

(It it agreed that a copy of said paper be here inserted as the answer of the witness to the question, which copy is as follows, to-wit):

CHICAGO, BURLINGTON & QUINCY R. R. CO.

LINES IN NEBRASKA.

Name of Road	From	To	Miles
Burl. & Mo. R. R. R. in Neb.	Middle Mo. Riv.	Kearney	191.61
Omaha & So. Western	Omaha	Oreapolis	46.93
	Crete	Beatrice	
Omaha & No. Platte	Omaha	Schuyler	80.78
Nebraska Ry.	Nemaha	York	136.70
	Nebraska City Bridge Line		
Atchison & Nebraska	Neb. State Line	Lincoln	107.78
	Rulo Bridge Line		
Lincoln & No. Western	Lincoln	Columbus	73.49
Lincoln & Black Hills	Central City	Ericson	157.88
	Palmer	Arcadia	
	Greeley	Burwell	
Gd. Island & Wyoming Cent.	Grand Island	Neb. State Line	352.64
Republican Valley R. R.	Hastings	Neb. State Line	551.99
	Table Rock	Amboy	
	Beatrice	Wymore	
	Salem	Nemaha	
	Aurora	Hastings	
	Grand Island & Central City		
Chicago, Nebraska & Kansas	Odell	Neb. State Line	5.28
Rep. Valley, Kas. & S. W.	Republican	Neb. State Line	8.50
Oxford & Kansas	Orleans	Neb. State Line	59.61
Rep. Valley & Wyoming	Culbertson	Imperial	49.17
Nebraska & Colorado	Kenesaw	Oxford	430.71
	De Witt	Neb. State Line	
	Fairmont	Chester	
	Edgar	Superior	
		Total	2,253.07

Burlington & Mo. River
Auditor's Office,
Dec. 22, 1893.
R. R. in Neb.

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Q. What mortgages are there upon the property in this state?

A. I have a second exhibit here, giving them exact, and in entirety, which I would like to submit as my answer. It gives the name of the road and the amount of the mortgage.

Q. Is it the amount of the mortgage in this state?

A. In Nebraska only; it also gives the amount of the mortgages per mile; the amount of fixed charges each year, and the amount of fixed charges per mile; I would like to submit this paper as my answer.

(The submission of this paper is postponed until the next examination.)

Adjourned until Saturday, January 6, 1894, 10 A. M., at Lincoln, Nebraska.

LINCOLN, Jan. 6, 1894, 10 A. M.

The further taking of testimony was resumed as follows, viz:

Present:

J. M. WOOLWORTH,

Solicitor for Complainants.

G. H. HASTINGS,

W. A. DILWORTH,

Solicitors for Defendants, Members of the State Board of Transportation.

JAMES G. TAYLOR, recalled for complainants, testified as follows, viz:

DIRECT EXAMINATION—CONTINUED.

By Mr. Woolworth:

Q. You were asked upon your former examination for a tabulated statement of the mortgages upon the roads in the Burlington System; have you that statement with you?

A. I have.

Q. Will you please produce it?

A. A tabulated statement of the indebtedness?

Q. Yes, sir.

(Witness produces statement.)

Q. Is this statement in all respects correct, Mr. Taylor?

A. It is; in every respect.

By Mr. Woolworth:

I introduce that statement, and ask that it be taken as the answer of the witness.

(The following is a copy of the statement referred to and introduced as the answer of the witness):

Exhibit "6".

CHICAGO BURLINGTON & QUINCY. R. R. CO.

BONDED DEBT IN NEBRASKA.

B. & M. R. R. in Nebraska, consolidated mortgage.—Date of issue, July, 1878; date payable, July, 1918; rate of interest, 6 per cent; principal, $12,894,000.00; interest, $773,640.00. Trustee, New England Trust Co. Covers all of the property of the B. & M. R. R. in Nebraska, the O. & S. W. R. R. Co. and Nebraska Railway, including land grant, old bonds of these companies at rate 7 and 8 per cent amounting to $8,167,000.00 were redeemed by sale of these bonds; balance expended for new construction and equipment and to purchase securities of the R. V. R. R., amounting to $2,418,000.00, being cost of that company's lines from Hastings, south and west.

C. B. & Q., Denver extention, (Nebraska proportion).—Date of issue, December, 1882; date payable, February, 1922; rate of interest, 4 per cent; principal, $3,941,-769.60; interest $157,670.78. Trustee, New England Trust Co. Nebraska proportion covers the Republican Valley R. R. from west line of Red Willow Co. to Colorado state line, also line from Blue Springs through Beatrice to Nemaha; in all about 201 miles.

C. B. & Q. Nebraska extension, (Nebraska proportion).—Date of issue, May 1887; date payable, May 1927; rate of interest, 4 per cent; principal, $19,965,868.80; interest, $798,634.75. Nebraska proportion covers all lines of road built since 1887, except from Alliance to South Dakota line, and from Culbertson to Imperial, in all about 1,013 miles.

B. & M. R. R. in Nebraska, account A. & N. R. R. (Nebraska proportion).—Date of issue, January, 1880; date payable, January, 1910; rate of interest, 4 per cent; principal, $2,485,816.90; interest, $99,432.68. Trustee, New England Trust Co. Issued in exchange for capital stock of the Atchison & Nebraska R. R. Co. when that property was acquired by the B. & M.

Republican Valley R. R.—Date of issue, July, 1879; date payable, July, 1919; rate of interest 6 per cent; principal, $1,078,000.00; interest,$64,680.00. Trustee, New England Trust Co. Issued for construction of R. V. R. R. from west line of Franklin County westerly about 90 miles.

Omaha & South Western R. R.—Date of issue, June, 1871; date payable, June, 1896; rate of interest, 8 per cent; principal, $669,000.00; interest, $53,520.00. Trustees, John W. Brooks and John A. Dennison, issued for construction of O. & S. W. (about 47 miles). Amount now outstanding is balance not taken up by B. & M. consolidated mortgage of 1878.

Nebraska Ry.—Date of issue, October, 1877; date payable, October, 1896; rate of interest, 7 per cent; principal, $349,000.00; interest, $24,430.00. Trustees, J. N. A. Griswold, Alpheus Hardy and Wm. H. Forbes. Issued for construction of Nebraska Railway (about 137 miles). The amount outstanding is balance not taken up by B. & M. consolidated mortgage of 1878.

Atchison & Nebraska R. R. (Nebraska proportion).—Date of issue, March, 1878; date payable, March, 1908; rate of interest, 7 per cent; principal, $835,537.50; interest,

$58,487.70. Trustees, Joseph H. Blake; Geo. W. Weld and Thomas P. Beal. Issued for construction of A. & N. R. R., Nebraska mileage about 108 miles.

Lincoln & Northwestern R. R.—Date of issue, January, 1880; date payable, January, 1910; rate of interest, 7 per cent; principal, $600,000.00; interest, $42,000.00. Trustees, H. H. Hunnewell, Joseph H. Blake, and Thomas P. Beal. Issued for construction of L. & N. W. R. R., about 73 miles.

Republican Valley & Wyoming R. R.—Date of issue, May, 1889; date payable, May, 1927; rate of interest, 6 per cent; principal, $789,200.00; interest, $47,352.00. Trustees, Henry Parkman and W. J. Ladd. Issued for construction of Republican Valley and Wyoming R. R. from Beverly to Imperial, about 40 miles.

Grand Island & Wyo. Cent. R. R.—Date of issue, May, 1887; date payable, May, 1927; rate of interest, 6 per cent; principal, $1,660,800.00; interest, $99,648.00. Trustees, Henry Parkman and W. J. Ladd. Issued for construction of G. I. & W. C. R. R., northwesterly from Alliance, Nebraska, about 83 miles.

Total,	$45,268,992.80
Amount of mortgage per mile	20,092.14
Amount of interest charges each year as per 1892	2,224,171.17
Amount of sinking fund charges each year as per 1892	304,744.83
Total fixed charges each year as per year 1892	2,528,916.00
Amount of fixed charges per mile	1,122.43

BURLINGTON & MO. RIVER
AUDITOR'S OFFICE
JAN. 5, 1894.
R. R. IN NEB.

Q. Mr. Taylor, what were the earnings for freight upon the whole system, covering 3,350 miles, for the year 1892, the total earnings?

A. $8,711,972.69.

Q. That covers, I understand you, all of the roads in the B. & M. system in this state and out of this state?

A. It includes all lines west of the Missouri River.

Q. What were the operating expenses west of the Missouri River?

A. $8,057, 796.25, that is operating proper; the taxes in addition are $660,796.37, making a total of $8,718,592.62.

Q. What per cent of this was business beginning and ending in this state; I mean earnings?

A. Earnings, 21.27, applies to Nebraska proper.

Q. Give the amount?

A. Amounting to $1,853,036.59.

Q. What were the operating expenses for business beginning and ending in this state, in figures?

A. Including taxes, or do you wish them separate?

Q. Without taxes?

A. Operating proper, $6,045,965.21.

Q. In this state?

A. Yes, sir.

Q. Is that for business which begins and ends in this state?

A. Yes, sir; I believe that was the total for business in this state.

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Q. I asked not for the total in Nebraska, I asked for business that begins and ends in this state.

A. That answer to business beginning and ending in this state is $221,742.84.

Q. What were the expenses of that business?

A. That I have given you is the expenses, $1,221,742.84.

Q. What were the earnings per ton, per mile, in that year?

A. On all roads west of the Missouri River?

Q. Yes, sir.

A. Including taxes, 0.939 cents.

Q. What were your earnings per ton, per mile, in this state?

A. 1.091 cents.

Q. I want the average rate earned per ton, per mile, and the average cost per ton, per mile, in this state, of business beginning and ending in this state; I want the two items.

A. The average rate per ton per mile earned on roads west of the Missouri River is 1.340 cents; in Nebraska proper, the amount earned, originating and terminating in the state is 2.079 cents.

Q. Now, the cost of operating, the average cost per ton, per mile?

A. Including taxes, on all roads west of the Missouri River, is .939 cents; in Nebraska proper for the same is 1.370 cents.

Q. What are the fixed charges per ton, per mile, in this state?

A. That I have not figured out.

Q. What per cent do you assign to freight of the operating expenses and taxes, distinct from passenger business?

A. Seventy per cent of the total; seventy per cent for the total business, is it, I understand you?

Q. How is that in this state, business beginning and ending in this state?

A. Seventy per cent.

Q. And how do you divide the operating expenses between the freight and passenger in this state; on what per cent?

A. Why, we have always done it on the earnings, say seventy to freight, and thirty to passenger; that is the accepted rule, I believe, in every case.

Q. Have you a memorandum of those figures to which you have testified?

A. I have this.

Q. Are the figures shown upon that memorandum correct?

A. Absolutely so.

Q. Will you take that, then, as your answer to all these questions?

A. I will.

By Mr. Woolworth:

I will offer this statement, marked "Exhibit 7," of which the following is a copy:

Exhibit "7".

Memorandum of the B. & M. freight earnings and expenses, including taxes for the year 1892:

FREIGHT EARNINGS.

For road west of Missouri river		$ 8,711,972.69
Nebraska proper		1,853,036.59
Tons one mile:		
Road west Missouri river		650,242,008.00
Average rate per ton per mile earned:		
Road west Missouri river		1.340 cents
Within the State of Nebraska		1.332 cents
Nebraska proper		2.079 cents

EXPENSES.

Road west of Missouri river:		
Operating	$8,057,796.25	
Taxes	660,796.37	—$ 8,718,592.62
For the State of Nebraska:		
Operating	$6,045,965.21	
Taxes	483,578.07	—$ 6,529,543.28
Assigned to freight, seventy per cent		4,570,680.30
To Nebraska proper freight		1,221,742.84
Average cost per ton per mile, including taxes:		
Road west of Missouri river		0.939 cents
Within the State of Nebraska		.879 cents
Nebraska proper		1.370 cents

"Nebraska proper" means business originating and terminating in Nebraska.

Q. Will you state the names of the roads forming the system west of the Missouri river, the points between which each of them run, and the number of miles covered by each of them?

A. Yes, I have a memorandum here which I produce as my answer.

By Mr. Woolworth:

I offer this paper to which the witness has referred, and ask that it be attached hereto, marked "Exhibit 8."

The following is a copy of Exhibit 8:

Exhibit "8".

CHICAGO, BURLINGTON & QUINCY R. R. CO.

LINES IN NEBRASKA.

Name of Road	From	To	Miles
Burl. & Mo. R. R. R. in Neb.	Middle Mo. Riv.	Kearney	191.61
Omaha & So. Western	Omaha	Oreapolis	46.93
	Crete	Beatrice	
Omaha & No. Platte	Omaha	Schuyler	80.78
Nebraska Ry.	Nemaha	York	136.70
	Nebraska City Bridge Line		
Atchison & Nebraska	Neb. State Line	Lincoln	107.78
	Rulo Bridge Line		
Lincoln & No. Western	Lincoln	Columbus	73.49
Lincoln & Black Hills	Central City	Ericson	157.88
	Palmer	Arcadia	
	Greeley	Burwell	
Gd. Island & Wyoming Cent.	Grand Island	Neb. State Line	352.64
Republican Valley R. R.	Hastings	Neb. State Line	551.99
	Table Rock	Amboy	
	Beatrice	Wymore	
	Salem	Nemaha	
	Nemaha	Beatrice	
	Aurora	Hastings	
	Grand Island & Central City		
Chicago, Nebraska & Kansas	Odell	Neb. State Line	5.28
Rep. Valley, Kas. & S. W.	Republican	Neb. State Line	8.50
Oxford & Kansas	Orleans	Neb. State Line	59.61
Rep. Valley & Wyoming	Culbertson	Imperial	49.17
Nebraska & Colorado	Kenesaw	Oxford	430.71
	De Witt	Neb. State Line	
	Fairmont	Chester	
	Edgar	Superior	
		Total	2,253.07

Burlington & Mo. River
Auditor's Office,
Dec. 22, 1893.
R. R. in Neb.

By Mr. Woolworth:

I will offer the paper showing the bonded debt in Nebraska, heretofore presented by the witness, and ask that it be annexed to his testimony, marked Exhibit "6."

CROSS-EXAMINATION.

By Mr. Hastings:

Q. Did you compile this statement of the indebtedness of the road, Mr. Taylor?

A. Personally, I did not.

Q. It was compiled under your direction, was it?

A. It was compiled under my direction, and I checked it carefully.

Q. You verified it, did you?

A. Yes, and I know it is absolutely right.

Q. You have gone over it to verify each and every one of the figures, have you?

A. Yes, sir.

Q. "B. & M. R. R. in Neb., Consolidated Mortgage," to what does that refer?

A. The explanation is given just below; I cannot give the dates from memory now; it was used to lift the old seven and eight per cent bonds; in other words, to scale the interest.

Q. Then this explanation immediately following that statement of $12,894,000 is the explanation you make of how that originated?

A. How that originated, and for what purpose they were used.

Q. That mortgage, then, was a funding mortgage, of prior indebtedness?

A. Well, in part, and in part for new construction.

Q. That was the explanation, for new construction and equipment, and to purchase securities of the Republican Valley Railroad, amounting to $2,418,000, was it?

A. Yes, sir.

Q. That line extends from Hastings south and west, does it?

A. Yes, and the Republican Valley proper also extends from Aurora down to Hastings.

Q. That is all called the Republican Valley?

A. Yes, sir.

Q. And this other item, "The C. B. & Q., Denver Extension"?

A. That is from the state line to Denver, if my memory serves me right; I am not certain without referring to data.

Q. This item, "C. B. & Q., Neb. Extension. Nebraska proportion covers all lines of road built since 1887, except from Alliance to South Dakota line, and from Culburtson to Imperial, in all about 1,013 miles;" what was that?

A. That is the road from Aurora to Broken Bow and to South Dakota line, and the Cheyenne line and others.

Q. To go back to this item of July, 1878, was that $12,894,000.00 the original amount of the mortgage?

A. I could not tell without reference to data; I believe that it was.

Q. Are all these items existing debts at the present time against the company?

A. Those are existing debts after deducting all sinking funds. That is the actual bonded indebtedness that still exists.

Q. Exclusive of funds in the hands of—

A. In the hands of trustees or anything like that.

Q. Do you have any knowledge of the way that these debts, or any of them, were originally contracted?

A. Yes; I have personal knowledge that it was for the construction and equipment of lines west of the Missouri River.

Q. And used for that purpose?

A. And used for that purpose only, either that or to refund and take up bonded indebtedness issued for previous construction.

Q. Of what road?

A. All lines west of the Missouri River, properly the B. & M.

Q. How long have you been connected with that department?

A. I have been connected with all of the departments twenty-three years, since the road practically started at Plattsmouth.

Q. Now you say that these items that are contained in this statement which has been copied into the record are still existing debts. Now, I would like to ask you if these bonds or mortgages that evidence these several debts were issued by the several different companies that are referred to in this statement?

A. In every case.

Q. And were they issued at the time that these purport to bear date on the statement?

A. Yes, sir; and payable the date given on that statement.

Q. Are all of these companies incorporated in this state?

A. Yes, sir; every one.

Q. And you were one of the original incorporators in some, or all of them?

A. Yes; in the majority of them.

Q. Could you tell us by referring to them which companies you are one of the original incorporators in?

A. I think I was in the Republican Valley, but that is so long ago I can't recollect it; it seems to me now I am a director in the Republican Valley, but might not have been an incorporator; I do not recollect now; I know I was an incorporator in the Republican Valley & Wyoming; in the Grand Island & Wyoming Central, and I believe that is all on that list.

Q. All of these roads, under whatever name they may

bear, make up what is known as the Burlington System west of the Missouri River?

A. They do.

Q. Commonly known as the B. & M. System?

A. Yes, sir.

Q. They were organized for that purpose, that is to become a part of the B. & M. System?

A. Well, now, here is the Nebraska Railway, and the A. & N., and the Lincoln & Northwestern, they were organized and we bought them.

Q. And they have become united with that same system of road, and now form a constituent part of it?

A. Yes, sir.

Q. And all these lines of road you have named there go to make up the Burlington System west of the river?

A. Yes, sir.

Q. Have you read the answer that has been filed by the State Board of Transportation, defendants in the case brought by the stockholders of the Burlington Company?

A. No, sir.

Q. The Burlington System west of the river is connected closely with the Burlington System extending from the river east, is it not? When I refer to the river I mean the Missouri River.

A. Yes.

Q. You have a system of dividing the earnings and the operating expenses of that system at the river, have you not?

A. Yes, sir.

Q. Can you tell us the system that you pursue as to the amount of expenses and earnings?

A. West of the Missouri river we are absolutely independent of all lines east.

Q. You mean in management?

A. In management, and the expenses and earnings are kept absolutely separate; I have nothing to do with the lines east of the river, and I know nothing about their earnings and expenses.

Q. Now, a carload of freight originating within the State of Nebraska, and with its destination Chicago, how do you separate the earnings of the lines west of the river and east, how proportion it?

A. We separate them on a percentage basis, at Pacific Junction, at the Missouri river, the C. B. & Q. taking one percentage and we the other.

Q. Tell us what the percentage is; how it is arranged?

A. I cannot do that; I have not that data in my mind.

Q. And of the passenger earnings, how do you separate that?

A. The same as any foreign road.

Q. That is a certain percentage also, on through passengers, is it?

A. No, sir; we sell by coupon apportionment, the same as foreign roads, and they take their part of the ticket by coupon, and we take our part.

Q. Now, the freight earnings of the system west of the river for the year you stated, 1892, was $8,711,972.69; will you tell me at what time your year begins and ends from which you have made your figures?

A. January 1st to December 31st.

Q. That is for the year 1892?

A. For all years.

Q. You were testifying here to 1892?

A. Yes, 1892.

Q. Have you made a computation of the freight earnings on the system west of the Missouri River for the year 1893?

A. Not yet; our records are not completed; December will not be completed for several days, probably three weeks.

Q. And all of those figures which you have given us as to expenses and as to earnings have been on the year 1892?

A. Yes, sir.

Q. Ending December 31st?

A. Yes, sir.

Q. And you have made no computations then, as to the year 1893?

A. None.

Q. Now, you have all of your expenses and earnings up to the month of December, 1893, have you not?

A. Up to the first of December.

Q. Your accounts would come in some time after the first of the month?

A. Yes, sir.

Q. Now then, in operating expenses, what do you include?

A. Well, properly, every expense whatever, except interest.

Q. That would include, then, betterments of all kinds?

A. Yes, unless they be construction.

Q. Like the building of station houses, repairing of road bed and repairing of rolling stock?

A. That is all operating.

Q. Will you give me—I am not very familiar with the operating of railroads—will you give me a list of those items that you consider, or are considered by the Burlington company, as operating expenses?

A. I can give a part of them from memory; there is properly about thirty-two accounts, I believe.

Q. Then you say, in a general way, that the operating expenses of a railroad company include all of the items except interest?

A. Everything except interest, yes, and construction, in case of new lines.

Q. When you say construction, you mean construction of new lines of road?

A. Yes, sir.

Q. Not betterment?

A. No, sir.

Q. When a bridge burns up and is rebuilt, that is operating expenses?

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A. Yes, in every case.

Q. The keeping of road bed and rolling stock?

A. Yes, that is operating.

Q. The increase of rolling stock and locomotives, etc., is that an operating expense?

A. No; if a locomotive is destroyed and we replace it, that is an operating expense; if we increase the number, that is construction.

Q. Can you give me approximately, the figures of the road west of the river during the year 1892, for the increase of the rolling stock—construction?

A. I believe we have made no increase whatever, I believe, in cars of any kind, and we have purchased ten or twelve new locomotives for new lines, the number I cannot give from memory; our total equipment of locomotives is 331.

Q. That is west of the river.

A. Yes, west of the river.

Q. Now, Mr. Taylor, by your figures, I discover that of the freight carried, 21.27 per cent originated and ended within this state; does that include grain and live animals that had been shipped from the interior part of the state to Omaha or South Omaha, for instance, and unloaded there, and then reloaded and forwarded to Chicago?

A. It includes everything originating and terminating in Nebraska.

Q. Now, is it not true that a system prevails on your road, and on other roads, if you are informed as to them, of shipping live animals, like hogs and cattle, and perhaps the

shipping of horses, to South Omaha, for instance, and there unloading them, and if a market be found there for them they are disposed of, and if not, they are forwarded directly on to Chicago on the same waybill on which they started?

A. I have no personal knowledge of any such arrangement; that would properly come in the traffic department.

Q. Who, of your people would be liable to have knowledge of such an arrangement, if such a one there be?

A. The general freight agent, Mr. Geo. H. Crosby.

Q. And in your figures of 21.27 per cent of the freight business that ends and begins in the State of Nebraska, that is shipped on your line of road, you could not say with certainity whether the statement you made included it?

A. Yes, I know it includes all business originating and terminating in Nebraska.

Q. But what I was trying to find out, was in the event that such a rule prevailed on your lines, and on other lines, and a car of live stock was shipped to South Omaha, for instance, or a car of grain to Omaha, but billed to Chicago, but unloaded at the river, and afterwards forwarded to Chicago, whether that would be called originating and ending in this state?

A. Not unless it was billed direct to South Omaha, or Omaha.

Q. Then in all of those instances, if there be such, if the bill was a through bill, it would not be included as originating and ending within the state?

A. No, sir.

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Q. And the matter of the earnings in round numbers, of the freight that originates and ends in this state, $1,853,036.59, I simply repeat those figures that there may be no confusion; does that item include any cars of produce that would be billed through, but with the privilege to stop off at Omaha, or other river points for the purpose of finding a market, and if not, shipping it on?

A. No, that only includes absolutely local business.

Q. Is it not a fact, that in the shipping of beeves or hogs, or sheep, to South Omaha, alive, a through rate is made to Chicago, in order to enable the packers at the river or other points in the state, if there be other packers, to forward the shipment of such animals?

A. I have no knowledge of such an arrangement myself; I do not think it exists; I do not think it could.

Q. If such an arrangement should be shown later to exist, such shipments would not be included in your estimate of the earnings on Nebraska business proper, would it?

A. No, sir; it could not be.

Q. Now, you have spoken of the item of taxes, you are the auditor of the road, and as such, have the matter of taxes directly in your charge, have you not?

A. I do.

Q. And have had for a long number of years?

A. Yes, several years.

Q. And this matter of taxes paid, $483,578.07, that includes what, Mr. Taylor?

A. The taxes on the system.

Q. West of the river, or the system in this state, that is, lines doing business within this state alone?

A. In Nebraska only.

Q. And that is for the taxes of 1892?

A. Yes, sir; that is, paid in 1892, though some of those may be '91 taxes there; a small sum.

Q. Is that taxes on anything aside from your railroad property, your terminal facilities and rolling stock, or does it include more or less other lands?

A. No, sir, no land; that is our actual operating taxes.

Q. And for outside lands, if any there be, owned by the company, is a different item, is it?

A. Yes, sir; entirely.

Q. This includes, then, only the assessment that is levied against the Burlington company in this state by the state board?

A. Yes, and also city taxes, and special assessments of different kinds.

Q. Wherever they come?

A. Wherever they come.

Q. And your rate, Mr. Taylor, per ton, per mile, earned in this state, is arrived at by what method, how do you get at the fact; do you take the entire length of road in the state, and the amount of tonnage?

A. No, we take the total number of tons per mile.

Q. The total number of tons carried per mile?

A. We take the earnings in Nebraska proper, and divide that by the tonnage—the total number of tons one

mile in Nebraska, and we divide the earnings by that in Nebraska proper, and that gives the average rate per mile earned.

Q. And the method by which you arrive at the operating expenses per ton, per mile, Mr. Taylor?

A. We take the total expenses for the State of Nebraska, and divide that, including taxes, by the number of tons moved one mile.

Q. In that item I understand you to say that the interest charges do not enter?

A. No interest charges is made in our operating expenses, proper.

Q. The rate earned on the lines in Nebraska is 2.079 cents?

A. The average rate per ton, per mile, earned is 2.079 cents.

Q. And on your system west of the river it is 1.340 cents?

A. Yes, sir.

Q. Will you explain to me how your rate on earnings comes to be so much larger in this state than it is on your system as an entirety?

A. That I cannot tell.

Q. Your estimate of cost per ton, per mile, including taxes, on the entire system is 0.939 cents, while your estimate or average cost for carriage of freight in Nebraska is 1.091 cents; will you explain to me how it is that it costs more

to carry freight in Nebraska than it does on an average on your entire system?

A. Well, in Nebraska, the haul is generally a short one, and on our entire system where a long haul is made and through trains are running without breaking them up, it can be handled much more economically.

Q. Is it not a fact that the carriage is cheaper in this state than it is on the Black Hills division, for instance?

A. Well, that is problematical; the great trouble in Nebraska is the short branch lines, and hauling short distances to reach the main divisions, running short trains of three, four and five cars, which must be run daily where thirty cars should be handled; they reach the main line from junction points, and there they are made into big trains; and there is another question as to whether you cannot run short trains on a mountain road more economically than you can on a prairie road—you certainly can in the matter of fuel and engine service; in case it is running up and down hill, they run down hill without power, and probably expend no more power climbing a hill than they do running on open prairie; the result is, on many mountain lines it is less expense per mile than on a prairie road.

Q. Then a company has the advantage when it goes up and down hill, rather than on a level?

A. That is problematical; many maintain they do; I think in short trains without any doubt they do; in long trains I am in doubt of it; in long trains I think the prairie road has the advantage.

Q. Is it not a fact that the greater proportion of freight originates from this state, rather than on the Black Hills end or Colorado end of the system?

A. Yes, I should say the great bulk originates east of Hastings.

Q. As a matter of fact, is it not true that the amount of tonnage has a wide influence on the expenses of transportation?

A. Yes, a vast influence.

Q. That is one of the principal factors?

A. Yes, sir.

Q. This schedule of mileage in this state, 2,253.07; that includes the line from Culbertson up to Imperial?

A. I don't know.

Q. That is the last line you built?

A. That is the last line we built in Nebraska; yes, that is on that statement.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Taylor, you say you were one of the incorporators of some of the lines in your system; in acting in that capacity, did you act on your own private account, or on behalf of the ocmpany?

A. On my private account.

Q. And then, after the incorporation was effected and the organization was completed, was the organization in the in the interest of the company?

A. Yes, sir.

Q. And the work of construction was done by the company, was it not?

A. Yes, sir; by the company; by parties whom they contracted with.

Q. But the property came to the company by virtue of these proceedings of incorporation, organization and construction?

A. Yes, sir.

Q. In the schedule of the bonded debt, for instance, of the Denver extension, did you give the mortgage upon the whole extension, or only upon that part of it within this state?

A. Only that part within this state, up to the Colorado line.

Q. And how was it with the other roads?

A. All other roads the same; it includes construction only in Nebraska.

Q. Shipments from the interior of live stock to South Omaha, which were upon a through bill to Chicago, but discharged and sold at South Omaha, do the earnings of that business go into the business on this side of the river, or into the general account?

A. It went into Nebraska business, inasmuch as it terminates at an initial point in Nebraska; regardless of the Chicago billing, it was stopped locally, and became local business.

Q. Do you know on what per cent the business from

this state to Chicago, or the reverse of that, is divided between lines east and west of the river?

A. I do not recollect now what the per cent is; it is almost on a mileage basis, but what the percentage is I cannot recollect.

Q. Then, when you say it is on a mileage basis, you are merely speaking of the distance over which the freight on each side of the river is carried?

A. That is all, but I wish to say I am not certain now whether it on a mileage basis or percentage.

Q. You mean percentage of the earnings, do you?

A. Of the earnings; and I have no data here to tell; it is practically on a mileage basis, that is what it is.

Q. I want to call your attention to several items going in to the operating expenses. What do you say with reference to the maintenance of way on road already constructed, whether that goes into operating expenses or not?

A. Maintenance of way, as the bridges, fence, track, and other repairs on road accepted from contractors, finished road, that is charged to operating expenses in every case.

Q. State how it is with reference to motive power, whether that goes into operating expenses?

A. That goes entirely into operating expenses; it includes passenger and freight car repairs, and locomotive repairs.

Q. And maintenance of cars is an account covering the repairs and supplying the place of worn out cars, is it not?

A. Yes, sir.

Q. And all the items that may go under the head of maintenance of cars go into operating expenses, do they not?

A. Yes, sir; including the replacement of cars or engines destroyed in wrecks or worn out.

Q. In operating expenses do you carry the items which would fall naturally under the head of conducting transportation, such as for instance, wages of men, as engineers, brakemen, firemen, conductors, etc.

A. Yes, sir; we do.

Q. All, then of these four items which I was calling your attention to go into operating expenses, do they?

A. Yes, sir.

Q. Then are there not other miscellaneous expenses, or general expenses which go into the same account?

A. Yes, such as general offices, station service, water service, loss and damage, and others.

Q. What do you say about legal expenses?

A. Legal expenses, and others, there are some fifteen accounts.

Q. You are acquainted, are you, with the salaries paid to officers, clerks, and these general expenses which you have referred to?

A. Yes, in every case.

Q. Now, what do you say, Mr. Taylor, as to the reasonableness of the expenses incurred by the company on these accounts?

A. My judgment is that they are just as economically

conducted as it is possible to conduct them, and often times we run to the danger line in many cases; in many cases we are paying salaries for services which only gets very inefficient and poor help; too poor to conduct the business properly.

Q. And why do you do that?

A. We are obliged to do it.

Q. Why are you obliged to do it?

A. Our expenditures cannot possibly exceed our income or it is bankruptcy.

Q. And you keep those expenses as low as you possibly can to bring them within the income without regard to the efficiency of the service?

A. We are obliged to in many cases.

Q. How do your expenses compare with other roads on these items, in the same cities, running through the same country, doing the same business?

A. I think without exception, we are lower than other analogous roads; we are, in the majority of our items, without any doubt; in some cases, as in the cost of coal, we probably exceed some of them.

Q. The coal that you use on your lines in this state comes from where?

A. Iowa, Missouri, Colorado and Wyoming.

Q. It all has to be brought by you from other states to this state, does it not?

A. Every pound of it.

Q. Do you know the number of tons that you con-

sumed in this state—I am talking all the time about the year 1892—in the operation of the road?

A. I cannot give it now; I have data in my office showing what it is.

Q. Will you furnish to the examiner that item as your answer to this question?

A. I will; it is 381,702 tons.

Q. This sheet of mileage shows only the road that was completed on the first of January, 1892?

A. No, sir.

Q. I want to show what your mileage was at the beginning of January, 1892, the year you have been testifying about?

A. I cannot state that.

Q. State it as near as you can?

A. The total mileage to December 31, 1892, is given here, but the report to the state board will show that.

Q. Can you tell how many miles you built in the year 1892?

A. I cannot tell without reference to data.

Q. You have spoken about your keeping the salary account down. How was it in the year 1892 with reference to maintenance of way, whether the maintenance of the road was all that it ought to have been to keep your road up to a first class road, or whether it fell short of that, or whether it was in excess of it?

A. It fell very far short of it, taking the rate per mile we paid in the year 1892 for wages.

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Q. I am speaking of the maintenance of way?

A. Maintenance of way includes wages, rails, ties, bridges, etc.

Q. Did you keep up the efficiency and condition of the road in 1892 to an excessive state or short of that?

A. Far short of what it should have been.

Q. That was for the same reason you curtailed the expense for the other items you have spoken of, was it?

A. It was.

RE-CROSS-EXAMINATION.

By Mr. Hastings:

Q. Would it make any difference under your system of division whether a carload of freight originated within this state and was shipped to Omaha, or whether it was shipped to Chicago, that is, so far as the amount apportioned your line in this state, or west of the river was concerned?

A. I do not think it would.

Q. It would be practically the same, would it?

A. Yes; I have not direct charge of the divisions, and I cannot testify on that, it is done in my office, though.

Q. Now, as to the maintenance of way, is it not a fact that you replaced your steel largely in 1891 and 1892 with heavier steel?

A. We put some steel down, but how much, I cannot tell.

By Mr. Woolworth:

Q. State whether it was a considerable amount or not?

A. That I could not tell; we cancelled a part of an order for steel in 1892, and in 1893 we cancelled one order of forty miles that we were going to replace; we cancelled that and let the old iron or steel remain in the track.

By Mr. Hastings:

Q. Have you made a comparison, Mr. Taylor, between the amounts of wages paid to your employees in this state, and with that of the Elkhorn?

A. I never have.

Q. Or with the Missouri Pacific?

A. I never have.

Q. Or with the Rock Island?

A. I never have in that case; our salaries are generally less than the Union Pacific.

Q. You have compared it with the Union Pacific, have you?

A. Why, in a general way; yes, sir; I have seen their officers and talked things over at different times, without submitting any tables.

Q. You say that you have run your salary account down as low as the danger line; does that include train service?

A. No, our train men are experts, and they are paid good salaries, and there is every effort made to keep the best kind of material there.

Q. That refers more particularly to maintenance of way, does it not?

A. Maintenance of way, station service, and general offices.

Adjourned until 2: p. m.

LINCOLN, NEB., Jan. 6, 1894, 2:00 P. M.

The further taking of testimony was resumed, pursuant to adjournment, as follows, viz:

ANDREW S. VAN KURAN, sworn testified as follows, viz:

DIRECT EXAMINATION,

By Mr. Woolworth:

Q. State your name, age and occupation?

A. Andrew S. Van Kuran; age, 49; I am auditor for the Receivers of the Union Pacific System; residence, Omaha.

Q. How long have you been freight auditor of the Union Pacific.

A. I have been freight auditor for seven years past, but connected with the auditing Department for the last twenty-two years.

Q. Have you made an examination of the affairs of the company involved in the controversy in the case of Ames, et al. vs. The Union Pacific Railway Company, et al.?

A. Yes, sir.

Q. What were the freight earnings of the Union Pacific Railway Company upon the Omaha and Ogden line,

within the State of Nebraska for the year ending June 30, 1893?

A. $4,313,204.46.

Q. What were the freight earnings per ton, per mile?

A. 9.03 mills.

Q. What per cent of the whole business was business beginning and ending in the State of Nebraska?

A. I have not the figures as to that, but it is about 15 per cent of the earnings, which would give a rate per ton, per mile, earned on strictly local freight in Nebraska of 1.984 cents, at a cost of carriage of 1.135 cents per ton, per mile.

Q. What were the freight operating expenses, exclusive of taxes?

A. $2,344,975.00.

Q. What were they inclusive of taxes?

A. $2,501,935.00.

Q. What were the operating expenses upon that business during that period mentioned?

A. I have answered that; the last would be the total operating expenses; the first did not include taxes, and the second included taxes.

Q. What is the cost per ton, per mile, exclusive of taxes?

A. 4.9 mills.

Q. What was it, taxes included?

A. 5.23 mills.

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Q. What is the ratio of expenses to earnings, taxes excluded, upon all the business in this state?

A. 54.36 per cent.

Q. What was it, taxes included?

A. 58 per cent.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. What is your present relationship with the Union Pacific?

A. I am freight auditor for the receivers of the system.

Q. How long did you say you had been connected with that road?

A. For the last twenty-two years.

Q. You are stationed in Omaha, are you?

A. Yes, sir.

Q. And for that length of time been stationed there mostly have you?

A. Yes, all the time.

Q. Now, the computation that you have made for the freight earnings for the year ending June 30, 1893, is a correct computation, is it?

A. Yes, sir.

Q. And the figures you have verified yourself, so that you know them to be correct, have you?

A. Yes, sir; the waybills which showed the revenue form the basis; of course I have not made them all myself; but they have been prepared under my supervision.

Q. Now, the percentage of operating expenses, including taxes, to the amount earned, is fifty-eight per cent?

A. Yes, sir.

Q. That is, the surplus over and above the expenditures, amounts to forty-two per cent?

A. Yes; or in other words, the operating expenses are fifty-eight per cent. of the earnings.

Q. Calling 100 per cent the total?

A. Yes, sir.

Q. Does that include any of the earnings for passenger traffic?

A. No, sir.

Q. What percentage have you figured in that estimate of yours for passenger earnings?

A. About thirty per cent.

Q. Is that the basis ordinarily adopted by railroad people?

A. Yes, sir; our aim is to charge up everything directly to passenger expenses where we can determine it.

Q. Where it is determinable absolutely?

A. Yes, sir; that is the way we figure it, at about seventy per cent to thirty per cent; we proportion it on a train mileage basis.

Q. Your line extends west of the Nebraska line?

A. Yes, sir.

Q. What proportion do you credit to the Nebraska line, of the freight that originates beyoned the border and then comes into the state on your line?

A. Well, we are required by the government to make a separate showing of the earnings east of Cheyenne.

Q. Do you base your figures you have given us here to-day on the basis of Cheyenne?

A. Yes, sir; allowing for the proportion of the road mileage between Cheyenne and the state line, deducting the earnings thereof from the total earnings east of Cheyenne.

Q. And this method by which you arrived at that was to take Cheyenne as the basis, and from that deduct the proportionate amount of mileage there is between the western border of our state and Cheyenne?

A. Yes, that is about 43 miles.

Q. You say that the earnings per ton per mile for the shipment of freight is 9.3 mills; by what method do you arrive at that?

A. We find the tons moved first, the entire tonnage, and then the tonnage moved one mile, and divide the earnings by that.

Q. If the earnings per ton, per mile, are 9.3 mills, what are the operating expenses per ton per mile?

A. That is excluding taxes, 4.9 mills.

Q. And with taxes, 5.23 mills, you get fifty-eight per cent, the same result you got before?

A. Yes, figured on the same tonnage.

Q. What proportion of the traffic carried over your road for the year ending June 30, 1893, originated and ended within this state?

A. I could not say.

Q. Is it not a fact that the amount of tonnage controls largely the cost of its transportation?

A. Yes, it is true that the amount of tonnage is a large factor in determining the relation that the expenses bear to the earnings.

Q. Is it not also a fact that the larger proportion of the amount of freight between, we will say, Cheyenne and the Missouri River, which is originated locally, comes from that section of the country traversed by your road, say east of the 100th meridian?

A. It comes and goes; yes, I think it does.

Q. That is what I mean, comes and goes; now, is it not a fact, also, that the operating expenses of your line of road are less on the eastern than they are on the western end of the line in the state?

A. I should not think it would follow as a matter of course, for the reason that there is not, practically, much difference between the east and the west, except, perhaps, in the volume of traffic that might be handled; but the local traffic of Nebraska is largely traffic hauled short distances, and the amount is relatively larger than it would be on through service.

Q. Is it not true that the great majority, large proportion or percentage of your business, is that which originates beyond the state and that which goes beyond, or through business?

A. Yes, sir.

Q. And you have a system of through billing, have you not?

A. Yes, sir.

Q. A carload of freight, for instance, that originates in the western end of the state of Nebraska, live stock that is consigned to Chicago, that is what you call through billing?

A. Yes, if it goes off our line to a foreign line, we call it through billing.

Q. Do you have a system on your line of billing to the yards at Omaha, live stock, for instance, or grain, billing it to Chicago, and stopping off at Omaha, and if it finds a market there, sell it, and if not, send it on?

A. Yes, sir.

Q. Now, all of that which is billed to Chicago, is that a portion of the local freight of this state?

A. No sir; if it is billed to Omaha, and does not show final destination beyond, it is all local business and goes at a local rate.

Q. But if it is billed to Chicago with an Omaha stop-over?

A. It would take a proportion of the through rate, perhaps.

Q. Now, what is the difference to your road, whether the freight be billed through or whether it be not, what is the proportion to it?

A. I could not answer that question; our general divisions with the eastern lines would be on a basis of mileage;

if the through earnings were $100, each line hauling it 100 miles would get fifty per cent; that is the general basis.

Q. Or if one line hauled it 100 miles and another line 200 miles, the last line would get as much again as your road would get?

A. Yes, sir.

Q. Then, as I understand you, freight billed through, showing an Omaha stop-over would not be reckoned at your office as beginning and ending in the state?

A. No, sir.

Q. What items make up operating expenses?

A. Operating expenses are divided under general heads, and sub-heads; maintenance of way and structures; maintenance of equipment, conducting transportation and general expenses; these are the principal divisions, and these are subdivided into different divisions, classifying them.

Q. Then the operating expenses cover the expenditures made by a road, less the items of fixed charges or interest.

A. Yes, sir.

Q. You charge in your operating expenses all the expenditures you have made, less those two items, do you?

A. Yes, sir.

Q. This matter of taxes you have spoken of in your examination in chief; does that include anything besides the taxes upon your right of way, your terminal facilities and rolling stock?

A. No, sir; no land taxes.

Q. That simply covers, then, any assessment in the case of special city taxes, and the assessment levied by the state board and collected each year?

A. Yes, sir.

Q. You have your land tax separately?

A. Yes; that is outside of that entirely.

Q. How many miles has the Union Pacific in this state?

A. I guess I will have to go to my book for that. The Nebraska Division, which includes some lines in Colorado, has about 1,100; that is, in the system.

Q. In this state?

A. Yes, sir.

Q. How much of that is main line?

A. Four hundred and sixty-seven miles.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Van Kuran, what do you say about the economy with which your road is operated?

A. We think it is operated with the very greatest economy.

Q. What do you say about the item of salaries?

A. They are low.

Q. Give an illustration, without going into all the details, of one department, if you please?

A. Take my department; I have in my department from 100 to 150 men, and my pay-roll, including my own

salary, and all connected with the department, will average less than $60.00 per man, per month.

Q. How many men do you employ?

A. From 100 to 150; our station employes receive very low salaries, some as low as $40.00 a month—$40.00, $50.00, or $60.00, occasionally going as high as $75.00.

Q. Is the same true of all salaries, officers and employes, all included?

A. Yes, it is.

Q. About on the same ratio?

A. Yes; about on the same ratio.

Q. You say that the division between your company west of the river and companies east of the river is on a mileage basis; do you mean to mean to say that is mile per mile?

A. Yes, generally speaking; of course there are some exceptions to the rule, but that is the general basis; sometimes we may get a little more or less than that and another road may get a little more or less, on special divisions, but the general basis is mile for mile.

Q. Then you don't get a division with the other roads, giving you a count of more than one mile on your road to one mile on the eastern road?

A. No; I am speaking, you understand, of our Nebraska traffic.

Q. No, I am speaking of business beginning in our state and going beyond, or coming from beyond?

A. Coming from beyond our state from points on our line?

Q. Yes, sir.

A. So far as that is concerned, there are various divisions in effect.

Q. I am speaking of the Nebraska basis?

A. When I said it was on a straight mileage basis, I spoke as regards traffic from points in Nebraska to points on a foreign line east. On some other business we may have a different division; for instance, from points west on our Oregon Short Line, we may have a different division on that.

RE-CROSS-EXAMINATION.

By Mr. Hastings:

Q. Do you know what the average daily compensation of the general officers of the Union Pacific Company was in 1892?

A. No, sir; I do not.

Q. Could you say whether it was higher or lower than the Burlington, for instance?

A. No, sir; I could not.

Q. Now, is it not a fact that the average daily compensation of the general officers of the Union Pacific in 1892 was $9.42 and that of the Burlington was $8.46, and that of the Missouri Pacific Railroad Company $1.27 a day?

A. I do not know.

Q. Is it not true that the average daily compensation of station agents on the Union Pacific was $2.56 for 1892?

A. I do not know.

Q. And of the Burlington $1.64 a day, and of the Rock Island $1.94 a day?

A. I do not know.

Q. Now, is not this true, that the Union Pacific operated the Omaha & Republican Valley in 1892?

A. Yes, sir.

Q. And the St. Joe & Grand Island?

A. I think that was operated independently in 1892; think we operated it in 1890, and then it was turned back to them.

Q. And the K. C. & O.?

A. That is a part of the St. Joe System, whatever applies to the St. Joe, would apply to that line; the Kearney & Black Hills was not operated as part of the Union Pacific in 1892.

Q. What lines were operated by the Union Pacific in 1892, except the Union Pacific?

A. Only the Omaha & Republican Valley.

Q. In making up the average daily compensation of officers, clerks, station agents, and trainmen, the Omaha & Republican Valley would be added to the Union Pacific, would it?

A. Yes, sir; that is a proportion of those expenses would be charged to that line.

Q. Charged to the Union Pacific line?

A. Yes, sir.

Q. Is it not true, Mr. Van Kuran, that the average

daily compensation of the station agents on the B. & M. in this state in 1892 was $1.64?

A. I do not know.

Q. And on the Elkhorn, $2.00?

A. I do not know.

Q. On the Rock Island, $1.91?

A. I do not know.

Q. And the Missouri Pacific, $1.30?

A. I do not know.

Q. And the Union Pacific, $2.56?

A. I do not know.

RE-EXAMINATION.

By Mr. Woolworth:

Q. The total yearly compensation of the general officers of the Omaha & Republican Valley was all paid by the Union Pacific, was it not?

A. Yes, sir.

Q. And the same is true of the clerks in the general offices; was it not?

A. Yes, sir.

Q. I will ask you this further question. Business beginning and ending in this state on the main line, you say is mostly east of the 100th meridian?

A. Yes, sir.

Q. And your percentage of fifty-eight heretofore given is upon all of the business in the state?

A. Yes, sir.

Q. As well the business beginning and ending beyond the state line, or coming from beyond to points on your line, as well as the local business, proper?

A. Yes, includes all the business of that line in Nebraska.

Q. And the per cent of the local business would be very much greater, would it not?

A. The percentage of operating expenses?

Q. Yes.

A. I should think it would; yes.

WILLIAM RANDALL, recalled, testified as follows, viz:

By Mr. Woolworth:

Q. Mr. Randall, some objection was raised when you were examined before as to the information upon which you gave the figures of your business, earnings, expenses, etc. Have you verified those figures by personal examination, since?

A. I have.

Q. State as to the correctness of the figures you gave when you testified before?

A. The figures I gave when I testified before are perfectly correct, except on operating expenses; that should be $1,221,742.84 on strictly Nebraska business.

Q. How do you divide business beginning or ending on your line, going to or coming from points east of the river?

A. Well, there are quite a number of plans of division.

Do you mean originating or terminating in Nebraska, or do you mean all lines west of the river?

Q. Take business beginning at any point on your lines west of the river and going to points on the C., B. & Q. east of the river, have you any system of dividing those joint earnings?

A. Yes, sir.

Q. What is it?

A. I do not know that I could give it to you all from memory; it largely depends upon the originating point west of the river, or the terminating point west of the river, for instance, in the State of Nebraska—you want me to state it by numbers?

Q. Yes, sir?

A. In the State of Nebraska from forty to forty-five per cent would be assigned to that part of the line west of the river; I think from forty to forty-five per cent would be a fair assignment.

Q. Take this illustration—business on your lines west of the river, 100 miles west of the river, and destined to a point 100 miles east of the river, how are the earnings on that business divided between the management east and west of the river?

A. Just about half and half, as near as may be.

Q. How is it with business going east to Chicago?

A. Beginning where.

Q. Beginning 100 miles west of the river?

A. Say, Hastings.

Q. Say Hastings then?

A. To Chicago, that would be divided forty-five per cent west of the river and fifty-five per cent east.

Q. That gives forty-five per cent for 160 miles, and fifty-five per cent for 500 miles; is that right?

A. Yes, sir.

Q. Does that per cent obtain generally in the common business of the lines east and west of the river?

A. I think it does; yes, sir, it does.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. Mr. Randall, who establishes the basis on which the division between the C. B. & Q. and Burlington & Missouri freight earnings are separated?

A. The freight traffic department.

Q. On what basis or ratio is that fixed?

A. I guess it is fixed largely on a basis of experience.

Q. Well, does it go by mileage?

A. No, sir; mileage would not be a fair division.

Q. Will you explain to us why mileage would not be a fair division?

A. Yes, sir; for instance, take a train of grain and stock bound for Chicago; we gather that train up as we go along, at different points; we have got to stop and switch the cars into the train, and are doing so all the way to the Missouri river, having probably started with one car, or no cars at all, and have gathered up, by the time we get to the Missouri river, a complete train load for Chicago; we de-

liver to the C. B. & Q. at Pacific Junction, not a train on which they have got to stop every ten miles to deliver, but on which they have a clear run of 500 miles. Now, then, it is reasonable that that part of the system which did the heavy end of the work should be paid a little more in proportion than that part of the system which does the light end of the work. The same applies on west bound business; they deliver to us at the Missouri river a train load bound for 100 different places in Nebraska, which they picked up in Chicago or points east thereof, and they made up in Chicago, a train load bound for Nebraska. All they have to do after they get the cars into the Chicago yard is to haul the train to the Missouri River.

Q. And you distribute it?

A. Yes, we have got to distribute it, and we ought to be paid a little more, in fact a good deal more, for our work than the road east. That is what I mean when I say that the division is largely based on experience, a mileage division would not be fair.

Q. Then you have no fixed and settled basis on which the division is made, it is simply made upon, as I understand you, by the traffic department?

A. Yes, sir.

Q. From Hastings, or Holdrege, or Minden, or Benkelman, a certain proportion to Chicago is fixed by the traffic management to go to the B. & M., and a certain other proportion to go to the C., B. & Q. system, is that so?

A. Yes, or as we call it, so much west of the river, and so much east.

Q. You are not acquainted, then, with the rule by which they measure these proportions?

A. No; I could not say that I am acquainted with the rule, but the volume of business largely regulates it.

Q. It has been a matter that the experience of the traffic management has evolved?

A. Yes, sir.

Q. You say the volume of business largely regulates it? Is it not a fact that the volume of freight largely controls the cost of the transportion?

A. Yes; because if we could keep our lines in Nebraska fully occupied all the time we could afford to do business a great deal cheaper than we do; for instance, our road bed is lying idle at least seventy-five per cent of its time, absolutely doing nothing; station expenses are going on all the time, and taxes are going on all the time.

Q. The wages of your employees are going on all the time?

A. Yes, and we do not occupy the road twenty-five per cent of the time.

Q. As a proposition, if the volume of the freights could be doubled in the State of Nebraska, a material reduction could be made, at the same profit it is now done?

A. Yes, but the difficulty is in doubling the volume of it.

W. A. DILWORTH, recalled for complainants:

By Mr. Woolworth:

Q. You made an examination to ascertain what per cent of all the business on the Union Pacific in this state is local, that is to say, business beginning and ending in this state?

A. I have at different times estimated the local tonnage as compared with the tonnage originating on the line of this road in this state going outside of the state.

Q. And also business originating outside and coming to points on the road?

A. No, I have not done that; I have no statistics in my office to make any estimate on.

Q. What did you find that per cent to be?

A. On the Union Pacific—I made it different on the Union Pacific and the Omaha & Republican Valley; on the Union Pacific proper my estimate was something like twenty-three per cent; on the Omaha & Republican Valley it was sixteen per cent, and taking the two systems together, it was something like twenty-two per cent on the tonnage.

Q. Did you make an estimate as to the earnings?

A. Not as to earnings; my estimate as to earnings would be that there would not be much difference; because the length of the haul of the freight originating on the road and going outside of the state would offset the higher rate of the local freight.

Q. From the examination you made, what would you say as to the expense of business originating at points

beyond the lines of the Union Pacific, and destined to points on the line of the Union Pacific?

A. I have not made any estimate; I have not thought of that; I have no figures to make any estimate with, except as to their total earnings in the state, it might possibly be done that way.

Q. How was it with the Burlington?

A. On the Burlington, my estimate of local business originating on lines in this state is 20.8 per cent; that estimate was made from the estimate of their entire tonnage, and a knowledge of the traffic arrangements that the different companies have between each other in the state, and a general knowledge of where the business would go to.

Q. Have you made such an estimate of the Elkhorn?

A. I did, but I do not know as I can tell what that is now; my recollection is it is a little bit higher than the Union Pacific.

Q. That is to say about twenty per cent?

A. Yes; at least about twenty per cent.

Q. How is it on the St. Joe & Grand Island?

A. I have not made any estimate on that.

By Mr. Woolworth:

The proportions given by Mr. Dilworth, as the expert of the board of transportation, with the exception of the Burlington, are somewhat higher than the figures given to me. I would like to ask the attorney general if he is willing to take the figures given by his expert for the business locally in Nebraska.

The attorney general reserves the answer to this question until he has cross-examined the witness.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. In the computations you have made, Mr. Dilworth, concerning the local traffic upon the Union Pacific, originating and ending in this state, have you taken into account the freight originating in this state billed through to Chicago, with the stop ever privilege at Omaha?

A. I have done that, yes, sir; and have also taken into consideration the live stock that would go to Kansas City over the Omaha & Republican Valley by way of Topeka.

Q. Now, what makes up the bulk of this percentage of local traffic over the Union Pacific in the State of Nebraska?

A. The item of coal enters very largely into it.

Q. And grain and live stock?

A. And grain and live stock.

Q. Those are locally the principal items are they?

A. Yes; and merchandise is another large item, and hay is a large item.

Q. Are there any coal mines in the State of Nebraska, to your knowledge?

A. None that I know of.

Q. Will you tell me, if you can, how it is, that the item of coal enters into the local traffic?

A. The only way I can figure it out is, they ship their

coal from outside of the state, from their mines in Wyoming, to some station inside of the state, a distributing point, for instance, and re-bill it again as local freight.

Q. Without the item of coal entering into your computation, the local traffic of the Union Pacific in this state, what would be the percentage on the Union Pacific?

A. I should place it at about seventeen or eighteen per cent.

Q. And on the Republican Valley line?

A. The item of coal does not enter into that; that is sixteen per cent.

Q. Now, you say you made a computation also as to the matter of the local traffic upon the Burlington; for what year?

A. That was 1892.

Q. And concerning the Union Pacific; what year?

A. Ending June 30, 1892.

Q. And the Elkhorn?

A. The same year.

Q. You say that the Elkhorn was a trifle higher than the Union Pacific?

A. Yes. sir.

Q. Will you give me the figures on the Elkhorn as near as may be?

A. I think it was something like twenty-four per cent or twenty-five per cent, for the reason that grain enters very largely into the shipments made on other roads.

Q. What do you mean by other roads?

A. The Burlington, Missouri Pacific, and Union Pacific, and it does not enter so largely on the total tonnage of the Elkhorn as it does on the other roads; I estimate that of the grain shipped on the lines of railroad in this state about one per cent of it is shipped locally.

Q. Have you made any estimate as to what per cent of the live stock is shipped locally?

A. Yes, that varies some with different roads; on the Burlington I think about twenty-five per cent of it would be a very reasonable estimate of the amount shipped to South Omaha, taking into consideration that they ship some to Kansas City from the southern part of the state. The shippers of the state have been complaining for the last year that the rate made by the Burlington was such that it compelled them to market their stock to a large extent, at South Omaha—they could not afford to go by that market.

By Mr. Woolworth:

Q. Why is that, how is that effect accomplished?

A. Simply by making the local rate to Omaha at such a figure, and then the two rates to Chicago at different figures, that a man could get more proportionately at Omaha than he could if he went on to Chicago.

Q. That is, he could get more for his stock in Omaha, less freight, than he could in Chicago?

A. Less freight, and less something for expenses.

Mr. Hastings now answers Mr. Woolworth's question: "I will say to that, I am not placing Mr. Dilworth on the stand myself, he was called by the complainant, but I

have no doubt that the figures given by him are approximately correct as explained by the cross-examination."

ALBERT FINK, a witness called on behalf of the plaintiffs herein, and residing at Louisville, Kentucky, more than one hundred miles from the place where this cause is to be tried, being duly cautioned and sworn to tell the whole truth, and being carefully examined, deposes and says, as follows:

DIRECT EXAMINATION.

By Judge Woolworth:

Q. State your name, age occupation and place of residence.

A. My name is Albert Fink; I am retired from business; age, 66 years; residence, Louisville, Kentucky.

Q. I wish to learn from you the cost of railroad transportation, and will ask you to state in the first place, Mr. Fink, what your experience has been tending to make you competent to give your opinion on this matter.

A. I have been engaged in the transportation business of railroads since 1865; that is, twenty-eight years as general superintendent and vice president of the Louisville & Nashville railroad, and later as the commissioner of the trunk line association.

Q. In those capacities, did you make it the subject of study, the cost of transportation, and the formulating of rates of freight and other matters connected with this subject?

A. I have made it a special subject of investigation

and study, especially the cost of transportation, and I have been engaged in the establishment of transportation rates during the time I have mentioned.

Q. Will you please tell me if it is practicable to ascertain with accuracy the cost of transportation by rail?

A. That is rather a general question; you can ascertain the cost of transportations in a number of cases; for example, you can ascertain the average cost of transportation for a year, or a certain period of time; so much a ton per mile, approximately; it is an estimate; you have to assume certain conditions; you have to separate the passenger transportation from the freight transportation, and arrive at some estimate of the average cost per ton per mile of freight transportation; that is one way in which you can do it; you can estimate the cost of transportation for any particular service, when you know the conditions under which the service is performed; that is also a mere estimate, of course, approximately correct, perhaps.

Q. Let me put a more particular question, so as to direct your attention to the particular matter I have now in my mind; supposing I were in Chicago and desired to go by rail from here to Omaha, how would you ascertain the cost to the railroad of my transportation?

A. Do you mean the additional cost of taking you on a train that is already running on the road, in a car that would go anyhow; is that what you mean?

Q. Yes, I will take that case in the first place.

A. I think the additional cost of your being carried

to Omaha from here would be, everything else being prepared to do the work, the trains being run anyhow, would be a very small fraction of expense. You don't weigh more than 150 pounds, I reckon; it would not take a great deal more coal to carry you; it could hardly be estimated; and there is the risk of the liability of killing you, the railroads having to pay for you; that might enter into the consideration of the cost of carrying you.

Q. Then the cost to the railroad of my transportation would not, you think, be under that state of facts, an appreciable item.

A. It would not be very much; no.

Q. How would it be for the transportation of an additional carload of freight?

A. That would be more than it would be to carry you. Of course it would require more coal, it would require an additional car; the repairs of the car, the track would suffer more from carrying that additional car; that would be an additional expense; and then the liability of accident would also enter into the calculation of the additional cost of carrying an extra car on the train—on a train that would otherwise run and was not full, and the car could be taken along without overloading the train; there must be room on the train for the car; that is the condition.

Q. Yes.

A. If a train were loaded, and they would have to put on another train in order to carry that car, of course the expense would be greatly increased.

Q. I understand you to say if a train is made up, and has got to run, and another car is added to it.

A. If there is capacity for another car to be carried—if it is not loaded full yet, and it may still carry another car; the expense would not be so very great.

Q. Would it be practicable for a competent auditor to ascertain the additional cost of carrying the extra car?

A. O, yes; I think, approximately, it would; I have made such estimates myself.

Q. Would that additional service be considerable in amount; that is to say, supposing the train is to go, and is made up with its full complement of men and appliances, and an additional car of freight were added, would the cost to the railroads of hauling it be a considerable or an inconsiderable amount?

A. It would be comparatively small in comparison with the cost of the regular service; you do not charge anything in that case for the roadway, the use of the roadway, and there are a great many expenses on the railroad that are fixed without regard to the amount of transportation performed; the road repairs, for example, the cross-ties and the ditching, and the general superintendence of the road; a very large percentage of the expenses of a railroad are fixed; that is, they are independent of the movement of a certain amount of additional freight.

Q. If a railroad company were to undertake to make charges upon the basis indicated, that is to say, the cost to

the railroad of additional passengers or additional freight, how would it come out at the end of the year?

A. They would not come out at all; that is, they would not earn anything toward the general expenses, nor the fixed expenses, which are sometimes thirty per cent of the whole expense of operating the road; of course they are different on different roads.

Q. Then you would say that this extra or additional cost of carrying a passenger or a particular car would not be a proper method of ascertaining the real cost of the transportation of the passenger or the car?

A. The full cost you might say instead of the real; or the full average cost, you might say, perhaps; that is, I believe what you are trying to get at.

Q. I put it real, and you may make such explanation in your answer as you think would make the question intelligible and applicable; you would say then, would you not, that each car should be charged with its proportion of the expenses of the whole train?

A. Of course it should; if you want to ascertain the cost of transportation you have to find out the average cost of all the expenses of the movement of freight or passengers over the road.

Q. And each additional car would bear its share of the expenses of the whole train?

A. Yes, of the general expenses and of all the expenses involved in operating the road.

Q. You spoke a little while ago about the conditions

being fixed or ascertained; state whether it is practicable to state beforehand what the conditions will be of transportation during a period of time; or I will make the question a little more general; what did you mean when you spoke of the conditions being ascertained or fixed; what conditions had you in mind to which you referred?

A. There are so many conditions that influence the cost of transportation that it would be impossible for me to enumerate them; they are just as numerous as there are shipments made over a road.

Q. Will you enumerate some of them by way of example or illustration?

A. The quantity of freight to be transported is one thing that effects the cost of transportation; if you have a mile of road built, and you carry a thousand tons over it, the interest on the cost of the mile of road is distributed over the thousand tons; if you carry two or three thousand tons over it the interest would be distributed over the two or three thousand; of course it would be correspondingly less; that is one of the elements that fixes the price of the transportation on different roads.

Q. Then an important element, you say, is the amount of business that is done?

A. Yes, sir; that influences the cost of transportation; the cost of road repairs, for example; you have to keep the road up whether you carry one ton over it or a thousand, and the more tons you carry over the road the less is the cost of repairing per ton carried; the ditches on the line of

the road fill up whether you carry any freight over the road or not, and they have to be cleaned; and there are a great number of those expenses that are entirely dependant; a great number of these conditions enter into the consideration of the cost of transportation on the different railroads, or on the same road. Then the haul—the length of the haul is a condition; if you have short hauls you do not utilize your locomotive power; the most favorable condition is when you can have a full train load, as heavy as the locomotive can pull, and pull it from one end of the division to another end of the division without breaking the load; you can then do the most amount of work. If, on the other hand, you do a local business, that is, a business between the termini of the division, you unload your freight at every station, and may not get any new freight; it would be very exceptional to get any new freight to replace that amount exactly, and you have to proceed with your train with a less load in it; and while the cost of running the train, as I said before, is substantially the same, whether you have a little more load on it or not, the total work you do by that train is so much less than the work you do by pulling a loaded through train; that affects the cost of transportation very much. Then a local train, for example, you cannot load it to the full extent you can load a through train, because you have to stop the local train at various stations and shift cars in and out, and you could not handle a fully loaded train at local stations; so you start out with a less load on a local train, and you diminish your load as

you go along, unloading at different stations; you cannot do the full amount of work, and the cost of the fewer tons you carry on such a local train would be greater than the cost per ton on a through train. Of course that changes with the conditions of the local business; you cannot foresee it; you cannot predetermine it; you don't know what it will cost you to do the work beforehand; after you have done it, you know the cost of the train, and you know the amount of work that was done, and then you may make an estimate of what the work has cost you, but you cannot predetermine it. There are so many other conditions that I would really be required to write a treatise on transportation to mention them all; I merely mention these for the sake of illustration.

Q. If you will allow me, I would like to call your attention to the circumstances of the cost of fuel; if your road traverses a region which is well wooded and supplies you regularly and at convenient points with wood, or traverses a region which supplies coal, I suppose the operation of the road would be less expensive than it would be where the fuel had to be drawn from a great distance?

A. Yes, sir; there is a great difference in the cost of fuel on different roads, and of course the fuel is an important element in the cost of running a road; if fuel is higher the cost of running the road is higher, as a matter of course.

Q. Supposing the general conditions of a particular railroad are known, is it practicable to ascertain the cost of

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transportation with accuracy, or can it be done only approximately?

A. Do you mean the cost of transportation of any particular freight?

Q. Yes, sir.

A. If the conditions are known under which the freight would be transported, you can form an estimate; if you know how much freight you have in the car, if you know the distance it is to be hauled, whether it is to be hauled to a local station or whether it is to be hauled all over the road, whether you can fill your train with a full load—all these things enter into it; if you can foresee them, if you can base your catculations on fixed conditions in regard to all the various matters that enter into the cost of transportation, you could form a reasonably safe estimate of what that particular carriage would cost you.

Q. But that is practically impossible, is it not?

Q. It is impossible; you don't know what your business will be; that is all a matter of chance; you cannot tell before hand the conditions under which you carry the freight, therefore it is utterly impossible to say what will be the cost per ton per mile to carry that particular freight, but you can make an estimate when you know all the conditions, and when the conditions are simple.

Q. Then you may safely say you can only make an estimate of the cost of transportation?

A. Under certain conditions; whether those conditions hold out in practice you can tell.

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Q. If the government undertakes to fix railroad rates, and it is assumed that it cannot require the carrier to work for less than cost, how could the cost be ascertained?

A. It is a most difficult thing to ascertain, the cost of transportation of particular classes of freight; you can ascertain the average cost of all classes very readily, although it is only estimate; still it is near enough; if you have carried freight of various kinds during a certain period of time, and you know the expense you have incurred in doing so, you can ascertain the average cost per ton-mile of all the freight you have carried.

Q. Will you explain how you would ascertain the average cost?

A. In the first place I would have to separate the expenses that are incurred jointly on account of passenger and freight business. Of course this is a somewhat complicated business, and a good many questions enter into it, and railroad men may differ among themselves; there is no fixed mathematical rule for doing it, but you come to some approximate result as to the division of expenses between passenger and freight. When you have ascertained that, then you get the expenses of running the freight trains, for engineers and brakemen and so on, and all the expenses you can trace to freight service, and then you find you have carried so many tons of freight a mile and you have expended so much money; that gives you the expense for the transportation of the freight, but then you have to add to that the proportion of the road repairs, which are common, as I said

before. My rule has always been to charge the road repairs against freight and passenger business in accordance with the train mileage; each mile of train, passenger or freight, is charged with its proportion of road repairs, and then the general expenses will have to be distributed in the same way; I also have assumed that the general expenses should be divided according to the miles of freight and passenger trains run. Then there is the interest account; a mile of road costs you so much; you apportion the interest according to train milage of freight and passenger business.

Q. What do you say about station expenses?

A. You have to keep an account of the services of the men in the passenger business; if there is only one man employed attending to both freight and passenger business, I generally divide his salary according to the revenue of that station; of course these are arbitrary divisions, merely approximating results. When you have ascertained what your freight expenses are, then you divide the said amount by the number of tons carried, and this gives you the average cost per ton per mile. I wrote a paper on that subject in my annual report in 1874, into which I detailed all these questions of expenses, and the different formulæ, according to which the freight and passenger earnings may be separated and divided, and to get at the average cost per ton, per mile.

Q. You do not carry that formula in your mind now, do you?

A. Oh, no; I could not; it is a whole batch of fig-

ures, but it is based upon the general principles which I have explained to you, and I suppose that is all that is necessary.

Q. You ascertained, if I understand you, these expenses for a certain period—say, for instance, one year?

A. Yes, sir; for a year; that is a proper period to take, because during a year you have all the various conditions that influence the cost of transportation; they are all represented in the experience of a year—winter and summer, light business and heavy business, and so on.

Q. Can you ascertain what proportion between passengers and freight you adopted on the road, of which you had the charge, the Louisville & Nashville road?

A. I said I proportioned the joint expenses according to the number of passenger and freight train miles run.

Q. Did you work out a statement showing how much freight could be set off against one passenger?

A. No; but there has been an old annual, which I don't think is of any account, that one passenger was equivalent to a ton of freight; there is nothing in that.

Q. In point of fact, have freight tariffs been framed and are they framed with reference to this matter of cost?

A. Of course, the cost ought to be considered as an element in freight tariffs, especially to the extent that you should not do any work at a loss.

Q. Would you say cost on any particular shipment, or the average cost of transportation?

A. If you could ascertain the cost of any particular

shipment, of course you should not take the freight at a loss; but it is impossible to ascertain the cost of particular shipments, as I have explained before; you asked me the question how tariffs are formed, and I merely mentioned that cost was an element to the extent that you ought not to take any business at less than cost; but beyond that the cost has very little to do with the framing of tariffs; in fact, as a matter of practice, it is hardly ever considered. A general manager may have in his mind a certain minimum cost under which he does not want to take freight, but the freight agents don't know any more about the cost than the man in the moon; they make their tariffs on commercial principles; they find out what they can get and they adopt the tariff with a view of securing business; if a shipper does not want to ship by them at a certain rate, they must either go out of the business or they must take a less rate; and they have to regulate that from time to time to meet the demands of the public and commerce and of competition; but it is much oftener the case that the tariff of the road is made by some other road; in fact, there are very few roads that have much control over tariffs; they are simply guided by competition with other roads and water lines and the competition in the market; that forms the principal basis in making tariffs; the cost of transportation is hardly ever considered.

Q. Then you would say freight tariffs are the outgrowth of experience more than arbitrary rules?

A. I would; they are changed constantly to meet

the constantly changing conditions of the market and competition; if you were to fix a tariff permanently, and some other competing road would lower its tariff, you would lose the business.

Q. What do you then say of the government intervening and fixing rates arbitrarily for the transportation of freight?

Counsel for defendants, the Members of the Board of Transportation, objected to the question as incompetent, immaterial and argumentative.

A. I think you can answer that as well as I can after what I have told you of the process of making rates under which they . I don't see how a legislature can deal with a question of that sort which requires constant application and watching on the part of the railroad officers, watching each other and watching the markets and the constantly changing conditions; if a legislature can do that, I am not prepared to dispute their wisdom, but I am inclined to think it is no work for a legislature to do; it is most intricate work; it is commercial business that requires constant changes and experiments, and the application of principles to facts that are constantly varying every hour in the day.

Q. Then you think for a legislature to attempt to fix the rates for a period say, of two years, would result very unsatisfactorily, do you?

Objected to by counsel for defendants, the Members of the Board of Transportation, on the same grounds as before.

A. It would depend on what the rates are; if very high the railroads might stand it, but the business would suffer.

Q. Then the people would not be satisfied?

A. You have to fix rates to get business, and adapt your rates to the business; you cannot make any fixed, permanent tariff to be good for great lengths of time.

Q. Business and other elements enter into it?

A. Railroads adapt their tariffs to the business of the country, and you cannot do that by fixing them permanently.

Q. Supposing the government assumed to fix the rates; that is to say, arrogates to itself the power of doing it, and actually enters upon the work of doing it, and it is assumed that it could not fix the rates below what would be the cost to the carrier for performing the transportation; would it take the average cost of doing the service as the basis, or would it take the cost of particular shipments; that is to say, would it not be compelled to take as a basis of its rates the average cost of all the transportation instead of the cost of transportation of particular shipments?

A. If I understand you right, it could not take the cost of particular shipments, because it don't know what the cost of particular shipments is; if it has to take anything, it will have to take the average cost, otherwise it would be at sea; if it was compelled to base a tariff on cost, as it cannot ascertain the cost of each class of business, then it would have to take the average cost, provided it wanted

to be sure to allow charges not less than the cost of the service.

Q. In framing tariffs does the freight agent or the officer of the company charged with that business make a charge upon all kinds of traffic equally, or are some articles charged a higher rate and some articles a lower rate?

A. There are different classes, and each class has its own rate; some lower, some higher.

Q. Why do railroads frame their tariffs on that basis?

A. The reason is that there are certain articles of transportation that do not stand a high rate; that would not be moved at all if charged a high rate; and there are certain other articles of transportation that will stand higher rates; take silk, and other articles of luxury, of which the cost of transportation is an an infinitesimal part of the price of the article; they can stand higher rates without reducing the consumption of those articles; the price of the transportation is a trifle compared with the value of the article itself, so it can stand a higher rate; besides, the article itself is more expensive to carry; of most of those articles of luxury, like silk and such things, you can only load a few tons in a car, and it costs accordingly more to carry it; but the relative cost of transportation between those lower articles and higher articles does not always justify the difference in the rate; the principle is to charge the article what the service is worth; the charge is made according to the value of the service rendered to the shipper, and the value of the service is generally determined by the competition in business.

Q. Mr. Fink, have you ever read an article written by Prof. Tausig on this matter of the cost of transportation?

A. Yes; I have read his pamphlet.

Q. Do you remember in what publication the article appeared?

A. I received it from the professor himself, in a pamphlet, separate; it was published in one of the leading magazines in the east; I have forgotten the name; I have the article with me.

Q. Was it the Quarterly Journal of Economics?

A. Yes, sir.

Q. Do you remember whether it was the July number, 1891?

A. Yes, I think so; it was in 1891 when I received the article.

Q. I would like to read an extract from that and ask you if you recognize it as appearing in that article: "If the government were to undertake to regulate the price at which pig iron or steel rails should be sold, the task would be difficult enough; but the guiding principle would be comparatively simple. Let the pig iron be sold for what it costs to make, cost including ordinary profits; but, supposing it were attempted to fix the fair price for hides, horns, fat, rump, tenderloin—the complex conditions suggested by this question exist on a huge scale in regard to railroad rates. Now it is easy to see why it would be impracticable to fix the fair and reasonable price for horns, hides, fat, rump and tenderloin on the basis of cost. The animal costs so much

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per pound on the hoof; but when it is cut up and offered for sale some parts sell for much more per pound than other parts. Precisely the same thing is true of railroad transportation. The different prices which a railroad can obtain for carrying pig iron, say, and dry goods, are just as absolutely fixed by the natural law of supply and demand as the different prices which the butcher can obtain for the hides and the tenderloin." Do you recognize that passage?

A. I do not recognize the words, you know, but that is the sense of it, and I fully endorse it, what he says; that is my own opinion; I adopt it as my opinion.

Counsel for defendants, the Members of the Board of Transportation, objected to the latter part of the answer as not responsive to the question.

Q. Do you concur in the opinion of the professor as expressed in the paragraph which I have read?

A. Fully.

Q. I understand you to say, then, that the only ascertainable cost of transportation per 100 pounds, or one ton of freight a given distance, say one mile, is the average cost, and that this average cost is ascertained by dividing the total cost by the number of tons, say, moved one mile?

A. I do not say that is the only ascertainable cost; you might also ascertain the cost of transportation of any particular class of freight, if you know all the conditions under which it is transported; but you would find that those conditions are so various and so variable in the practicable operation of railroads that you could not tell before hand what

would be the cost of a particular shipment, and therefore, that the average cost per ton, per mile, is practicably the only ascertainable cost; but I do not say you can base a tariff on the cost per ton, per mile; that is to make the charges the same for all classes of freight, although it may be used as a guide to the making of a tariff.

Q. And you would say the conditions of one shipment cannot be predicated of another shipment?

A. No; they vary with every shipment, you might say.

Q. Which costs the railroad company the most, local or through freight?

A. Under local you understand only that which is distributed between the termini of a railroad or the termini of a division of a railroad?

Q. Yes.

A. And under through freight you understand only that which passes from one end of the road to the other, or at any rate over a whole division of the road?

Q. Yes; take for instance, the Union Pacific Railroad over which I believe you have passed?

A. No; but I understand the road.

Q. Running from Omaha to Ogden, a distance of a thousand miles, in round numbers; there are in the State of Nebraska a great many stations on that line; every ten miles a station; now I would like to know which is the more expensive to the railroad company, the local business —that is to say, the business between these stations, ten

miles or so apart—or the business which runs through from Omaha to Ogden?

A. The local business, of course; I think I partly answered that question before.

Q. Perhaps you did, but I would like to direct your attention to it particularly; will you be kind enough to tell me why local business costs a railroad company more than the through business?

A. The through business is generally transacted in this way: You have a full train; you accumulate at the terminal enough freight to get a full train load, as heavy as the locomotive can pull, taxing the locomotive to its full capacity; that train starts from one end of a division and keeps on running without stopping, except when it meets other trains, until it gets to the end of the division; if those cars have been loaded, say with ten tons of freight each, which is a load I state merely for the sake of illustration, and they have twenty cars, they have carried twenty times ten tons; that is two hundred tons; the cost of running that train varies, but on the average it may be said for illustration's sake to be about a dollar a mile; then it has cost a hundred dollars to carry this two hundred tons; that is fifty cents a ton; if it is carried one hundred miles, that is half a cent per ton per mile. Again, there comes in the question whether those cars have to go back empty, or whether they can be loaded at the other end; and that depends on so many different circumstances that you cannot foretell that; if they have to go back empty it costs twice

as much, say one cent per ton, per mile; the train costs nearly as much to carry it back empty as it costs to carry it forward; if you take local trains, the principal local business is a distributing business between stations, starting from some distributing point; the ends of the division are generally distributing points or places from which freight is distributed to intermediate points; that train may not have ten carloads to carry; sometimes not five; that is altogether owing to the condition of that business or that trade. But suppose the most favorable case, that the train had twenty cars to start with; the cars on that train cannot be loaded like through cars, to the full capacity; they are loaded with a view of discharging freight at the various stations along the line. They must put on top, of course, the freight for the first station, so as to be handy to unload, and in that way they may have only half a load in a car; they would unload a certain amount of freight at each station; of course, it would not be the same at every station; that, again, depends upon the local conditions of the country; but by the time they have got to the end of the division they have unloaded most of the freight as they have passed over the road; suppose they do that, then what is the amount of the paying work they have done? They started out with half a load, and that half load they had dropped gradually as they approach the other end; that makes half of what they started with; that is, they carried one-fourth, one-fourth of two hundred tons, or fifty tons, over one hundred miles; now, the cost of that is about

the same as a through train; perhaps it may be more, because they have to do switching along the line of the road, and shifting cars; but merely for an approximation take it that it costs the same; there will not be very much difference; the result is that the cost of carrying local freight is four times as much as the cost of the through freight per ton, per mile; of course, they may take on a certain amount of freight on the road, and fill up the place of the other; to what extent that may be done you cannot tell beforehand; as a general rule they run empty one way; upon this supposition you have the local business costing you three times as much per ton, per mile, as the through business; and yet I have not made any allowance for keeping up the agencies on the line of the road; sometimes, on roads where there is very little business, the expense of the agent is a good deal for the small business done at the station; so I am sure from these considerations that the local business is always much more expensive than the through business; there is an idea in the country that the local business has to pay for the through business, but I think the facts are the reverse; the through business has to pay for the local business.

Q. Let me call your attention to another matter, in connection with the local business to which you very casually adverted, perhaps, and that is the maintenance or expense of the stations.

A. Yes, that is what I mentioned; the cost of the buildings themselves must also be considered.

Q. All that expense would fall upon the local business as distinguished from through business, would it not?

A. Not necessarily, because you would have to keep telegraph operators for the through business, and the telegraph operator may be used as the agent; it would be very difficult, almost impossible, to separate the joint expenses.

Q. The conditions of the local business are much more numerous and variable, are they not, than of the through business?

A. Oh, yes; the tonnage is in smaller quantities; I don't know as I understand you fully, as to what conditions you mean.

Q. One condition is the amount of freight to be hauled.

A. Yes, sir.

Q. And other conditions of that sort; they are very much more variable, are they not, on local roads, than they are on through roads?

A. Yes.

Q. I would like to take your opinion upon the fairness of a tariff to the people and the roads themselves under these conditions: A region, we will say, four hundred and fifty miles in length, and three hundred in breadth, one corner of the state well populated, containing, we will say, a million people; the other three-quarters very sparsely populated, in agricultural products furnishing comparatively very little traffic, having no mines of coal or metal, and no manufacturing establishments, and with a population, we will say, of 150,000; what would you say of a tariff, made

no matter by whom, which would limit the charge which a railroad company in such a region should make, which should be the same in one part of the state as the other, in the sparsely or unoccupied part of the state, being three-quarters of its surface and the other part of the state being one-quarter of its surface and with a million people?

Objected to by counsel for the defendants, the Members of the Board of Transportation, as being immaterial, irrelevant and argumentative.

A. That is a new question for me; I have never considered that; I am inclined to think in practical railroading you would not make any distinction between them; I would not if I was manager of a railroad; I don't think I would; I can see the justice of your general ideas about it, but when you come to carry it out in practice, I think it would be rather objectionable.

Q. Suppose you had one railroad running through one part of the state, and another railroad running through another part of the state.

A. And each one was different in the way you explain?

Q. Yes; then the cost of transportation on the poor road must be greater, and you may make a tariff accordingly; but upon one line of road it would be difficult to make two different rates for different parts of the road; you have to take the good with the bad.

Q. If there were two roads.

A. If there were two separate roads, then you would

put it on the ground that it cost you more to work the line in the sparsely settled country, and you could afford to work cheaper for the other; but you cannot divide up the tariff in the middle of one line of road in that way.

Q. But with different railroads, differently situated, what would you say?

A. You have a right to charge what it costs you to operate the road, and if it costs you more, you should get more; you should charge according to what it costs to do the work; I suppose that it is a principle that is generally acknowledged all the world over, that you are entitled to compensation for the work you do.

CROSS-EXAMINATION.

By Gen. Hastings:

Q. Mr. Fink, you said you was the general superintendent of the Louisville & Nashville Railway Company?

A. Yes, sir.

Q. During what years?

A. From 1865 to 1875.

Q. And after that you—

A. I was commissioner of a traffic association.

Q. Commissioner of what traffic association?

A. At first I established the Southern Railway & Steamship Association in Atlanta, Georgia, and after that I went to New York; in 1877 I went to New York and established the Trunk Line Association.

Q. Was that a freight association?

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A. It was freight and passenger.

Q. Freight and passenger combined?

A. Yes, sir.

Q. During what years did you manage that?

A. From 1877 to 1889.

Q. Since 1889 you have not been engaged in business?

A. No; I retired from business.

Q. You say you have made quite a study and investigation of freight rates?

A. The cost of transportation; yes.

Q. And cost of transportation?

A. Yes, sir; establishing tariffs, and so on.

Q. Your investigation and study has taught you that the cost of transportation of freight over a given line of road can be reasonably well ascertained?

A. The average cost can; the average cost, yes, sir; but I wish I had brought my treatise which I wrote twenty years ago, as that would answer your question; I say you can with reasonable certainty ascertain the cost of transportation of the whole year, and you can also ascertain the cost of certain transportation when the conditions under which it is performed are given, but you cannot ascertain the cost of transportation of every article that you carry on the trains, separately and distinctly.

Q. You mean by the cost of certain portions of freight that particular articles cannot be definitely picked out and determined?

A. Any particular class of freight.

Q. But you can determine the average cost of the amount of freight transported in any given time on a road where the books are properly kept?

A. Yes, sir.

Q. And you can also ascertain the cost of transportation of passengers as well?

A. Yes, sir; you can, in the same way; the average cost.

Q. In figuring the cost of transportation for freight you figure first, I suppose, the value of the plant; that is, the cost of construction of the road and its equipment?

A. The equipment goes in to cost of construction; the interest on the whole is part of the cost of transportation.

Q. That is what you call fixed charges?

A. Yes, sir; the amount of interest you have to pay on the construction of the road includes interest on the rolling stock.

Q. Terminal facilities and all other equipment?

A All that, and whatever capital you have expended in building the road, and in that your rolling stock is included, and you figure the interest on the whole capital invested.

Q. With the interest you figure the amount of dividends paid?

A. No; I make a distinction between interest and dividends; the dividend represents the profit after paying interest on the bonded debt.

Q. To the stockholder?

A. The dividend is to the stockholder; yes, sir.

Q. The dividend and the interest on the bonded debt are both taken into account in figuring—

A. Yes, sir.

Q. Then, in arriving at the cost, you also figure the fact of the quantity of freight transported; that makes a difference, does it not?

A. It makes a difference in the cost of transportation?

Q. Yes?

A. A great difference; yes, sir.

Q. You testified, I believe, you could haul a hundred tons of freight about as cheaply as you could one?

A. I testified to that?

Q. Something to that effect; nearly as cheap?

A. Then I would have testified to something that is not true, which I don't think I have done; perhaps you must have misunderstood me.

Q. What I understood you to say was, that with the equipment of a road complete, the difference in hauling a hundred tons of freight would be but little more than a vastly smaller amount?

A. You have misunderstood me.

Q. Wherein would lie the difference?

A. The cost of hauling a hundred tons of freight is so much; now, if you construed my language as saying that an additional load on a train that was not fully loaded, that might carry a carload more, that the cash expense for that

service could be done at a very small expense; that is what I meant to say; but at the same time, if you had to do the whole work at that small expense you would not make by thirty per cent or forty per cent the amount of the operating expenses; that is if you had to do the work at that rate.

Q. The proportionate cost per mile, per ton, is not so great where the tonnage is large as it is where it is small, is it?

A. No, necessarily not.

Q. Then the cost of transportation of freight depends quite largely upon the volume to be transported, does it?

A. That is an element in it, yes, sir; a very strong element in it.

Q. Beside the interest and dividend and the volume of business there is also to be figured the operating expenses?

A. What enters into the operating expenses, yes.

Q. What makes up the items of operating expenses?

A. There is the repair of the road; that is a part of the operating expense; the running of trains; the cost of the engineers and firemen, and the fuel and the repairs of the engines, and the repairs of the cars are operating expenses; the agents, the salaries of the agents is an operating expense; the repairs of the road includes, of course, the repairs of the machinery; the ditching of the road, repairs of the cross-ties; you have to have water stations for the purpose of pumping water; all those items; I supposed it was very well understood what the operating expenses of the railroad

were; everything that is expended on account of doing the work on the road is an operating expense.

Q. Does the renewal of the equipment enter into it?

A. That is an operating expense.

Q. All of the new equipment, such as new engines and new cars, are charged into that same item, are they?

A. No, not always; the increase in rolling stock is chargeable to the construction account; some roads may charge it to the operating expenses; that is different on different roads; just as they see fit about it.

Q. Just as they happen to have the method of keeping accounts?

A. If they have plenty of money and do not want to loan any, I suppose they charge it to the operating expenses; it is perfectly legitimate, that any new additions to the road and new property added should be charged to capital account; some roads may not do it.

Q. I believe you testified you were the author of a treatise on the operation of railroads and their expenses?

A. Yes, sir.

Q. That book was written something like twenty years ago?

A. Yes, sir; in 1874.

Q. And in that work you laid down a formula whereby the cost of transportation of freight might be definitely ascertained and found out?

A. The average cost per ton, per mile; yes, sir; merely showing the separation of the passenger from the freight

operating expenses, and the various items in detail that enter into what you denominate operating expenses.

Q. Items like stone and sand and lime are not charged so great a rate as items of more value, are they, in transportation?

A. No, they belong to a cheap class of freight.

Q. Who fixes these rate sheets or tariffs for the roads?

A. The officers of the road; the general freight agent is the main officer and he has numerous assistants; then he does it under the superintendence of the president or vice president, or the general manager, as the case may be.

Q. Ordinarily speaking, these officers meet to formulate a tariff?

A. The officers on the same railroad, do you mean?

Q. Of different roads.

A. They do meet; yes, sir; sometimes they agree on a tariff for different roads; sometimes they do not agree, and fight.

Q. To return to the matter of your formula, as it is contained in your treatise, can you tell me whether that formula has usually been followed by the different railways of this country from that time?

A. I don't know.

Q. You don't know whether that has been followed?

A. No; I don't know whether they have adopted my plan. No; I could not tell you whether they have or not.

Q. You think the tariffs as made are not based on the cost of transportation?

A. As a practical question I don't know any of the freight agents in the country who know anything about the cost of transportation.

Q. You think they are ignorant on that point?

A. They have no use for it.

Q. And they base it simply on commercial principles?

A. Commercial principles; that is the principal basis; of course I take it for granted that the general manager is looking after the cost of transportation, and no doubt the general freight agent might get his instructions as to what rate he may charge in certain given cases so as not to be below the cost.

Q. And the tariff is based usually, then, on what the traffic will bear?

A. Yes; if you understand that in the proper sense.

Q. I think I do.

A. If you mean by it, do men charge everything they can—I would not like to use that expression; instead of that I would say, what the service is worth to the shipper.

Q. In other words, the first item to be considered is the value of the article to be transported?

A. No; the first item is the value of the transportation service to the shipper. Suppose a certain article of transportation is to be moved from New York to this place; it depends upon the market whether the price here is high enough to stand a certain charge for transportation in addition to the cost of the article; if for one reason or another that same article is supplied in Chicago from another source

at less than the charge for transportation added to the cost of the article in New York, then the article cannot be transported here from New York unless the rate is reduced so as to put the New York article on a footing with the article from elsewhese.

Q. That is the reason a low rate is fixed upon articles of little value, such as stone, coal, sand and lime?

A. That is on the same principle; these articles could not be transported at all if you charged a higher rate.

Q. And higher priced articles, such as silks, satins or finer fabrics, they are charged a higher price because they have more value and will bear more?

A. The service is worth more to the shipper and to the consumer, and of course in addition to that it costs more to carry them; the cheaper articles are carried in large quantities, car loads; and articles of a higher class are generally in smaller quantities and of lighter weight, and it costs more to carry them.

Q. Do you see anything detrimental or wrong in the fixing by the government of a maximum rate at a fair and remunerative figure, leaving a railroad company or its officers to make a rate as much lower than the maximum rate fixed as they please?

A. That depends altogether on what the maximum rate is.

Q. I say fair, reasonable maximum rate, paying the company a fair and reasonable sum for the services performed?

A. Does the legislature provide the necessary amount of business at that fair and reasonable tariff?

Q. It is based on the business that the railroad is doing.

A. You say it is a reasonable rate?

Q. A maximum rate.

A. A maximum rate; of course that presupposes a certain amount of business; without securing a certain amount of business you cannot determine what is a reasonable rate.

Q. But if the maximum rate as fixed by the government is such a rate as will furnish fair compensation for the service performed, is there anything inexpedient in fixing such a rate?

A. I think it is impossible for them to do that; they don't know how much much business the road is going to carry; it depends in a great measure on that; if you fix a tariff and don't know the quantity you are to carry, you cannot determine what is a reasonable rate; it is mere guess work; you ought not to do it.

Q. The only inexpediency you see, then, is the question as to the amount of business to be done under the maximum rate fixed?

A. No, sir; but when you fix a rate with a view of giving a reasonable compensation to the company, you have also to fix the quantity that you carry.

Q. You see no other or different objection than that?

A. Yes, sir; it is entirely impracticable.

Q. Will you tell me in what regard it is, leaving out of consideration the amount of business to be done?

A. That is the essence; but there are all the elements in the cost of transportation and service to shipper which I already have referred which have to be taken into consideration in making rates; it is merely a matter of chance, whether your legislature has been just or unjust, whether you have given the railroad company a proper compensation for service, or whether you have not.

Q. The volume of business on the different roads varies somewhat each year, I believe?

A. It varies very much each year; for example, the volume of business this year is much reduced as compared with former years; the Louisville & Nashville Road is losing three or four hundred thousand dollars worth of business a month in the past three or four months.

Q. Is that on account of the change of rates or in the volume of business or both?

A. It is the depression of the general business of the country by which nearly all the railroads are affected.

Q. You are of the opinion that a line of railroad, we will say, extending from the Missouri River, in the state of Nebraska, to the Colorado line on the west, could not well change the rate for transportation in crossing the State of Nebraska, a distance of .....

A. I don't think it would be practicable to change the rate of transportation on account of the reasons he (Mr. Woolworth) gives; it would complicate matters and lead to

numerous and insurmountable complications; in the case of a line where through rates have to be made, it is a very difficult subject to fit any special condition like the one he mentioned.

Q. If several lines of railroad in that state would be affected by the maximum rate fixed by the legislature, running from the Missouri river across the state into the State of Colorado on the west, you would say that the rates ought not to change in crossing the state?

A. I do not think the state line has anything to do with the rates at all; it ought not to have; rates have to be made on the railroad as a whole for the whole line of the road and its connecting roads; the adjustment of a rate is so difficult already that I cannot conceive how a state can be picked out and a tariff made on state business.

Q. If a line of road like the Union Pacific, or the Burlington, running from the City of Omaha, on the Missouri River, to the City of Denver, in the State of Colorado, your opinion would be that a local rate should be made the same throughout the length of the line?

A. Yes; I make the local rates the same, if possible, on the whole line.

Q. You changed that only where the competition was such you were obliged to, on business principles?

A. I make local rates on business principles everywhere.

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CROSS-EXAMINATION.

By Mr. Dilworth:

Q. You were speaking of the relative amount of cost of local and through trains; isn't it the fact that the railroad—that is, the track and the road-bed and the equipment, the cost of it has been considerably increased on account of the through traffic; that is, that through trains run considerably faster than local trains, and in order to accommodate these fast trains the road-beds have to be put in better shape, better care taken of them and better equipment?

A. I don't know of any particular case that I could state in support of or against you; there has been considerable improvement in modes of transportation, and of course where there is any through business, and large through business, the roads have adapted their accommodations and facilities to the large amount of through business; is that what you want me to answer?

Q. In short, isn't what is termed a fifty-mile an hour road considerably more expensive than a twenty-five-mile an hour road?

A. More expensive for the running of trains?

Q. Yes; and keeping up the road-bed; doesn't it cost more to keep up the road-bed on that account, renewing the rails and the ties; doesn't it wear out quicker?

A. If you want to run fifty miles an hour you have got to have a good road-bed; otherwise you could not do it safely.

Q. And you have got to have good equipment?

A. Of course; you want to attract business, and you must have good equipment.

Q. Doesn't it wear out the road-bed faster than running twenty-five miles an hour—running fifty miles an hour?

A. It does not make much difference on the wearing out of the road-bed; if it is a good road-bed; if it is a bad road-bed, it makes a good deal of difference; if you have a perfect track the rate of speed doesn't make any difference in the wear of the rails at all.

Q. If the average amount received for a ton of freight is one cent, one mill and three-tenths per ton, per mile, and half or all of its through business only brings seven mills per ton, per mile, doesn't that show that its local business is the more lucrative of the two?

A. No; it shows nothing at all; the statement you make in itself is no proof; it depends altogether on conditions.

Q. I say if there is such a condition of affairs as that?

A. It don't show the local business pays anything more on account of the cheap through business at all; the local business is the same; the through business does not affect it at all; it affects the average earnings of the road, but you have not proved yet that seven-tenths of a cent is not a better compensation for the through business than the one and one-tenth for the local business. You have not shown that yet.

Q. All the railroads in their annual reports make an

estimate of the cost of carrying a ton of freight per mile, do they not?

A. Not all; no.

Q. Most of them do?

A. A great many do, but I don't think they all do; I know some that do not.

Q. A great many of them do?

A. Yes, sir.

Q. If a railroad reports as its estimate of cost of carrying a ton of freight one mile is half a mill, and they receive one cent and eight mills, is not that pretty good compensation?

A. I think railroads would be very glad to do business at that rate; do you mean the average?

Q. The average, yes.

A. That the average cost per ton, per mile, is half a cent a ton.

Q. Yes, and they receive one cent and eight mills; any legislation that would reduce the rate thirty per cent on twenty-five per cent of the railroad's tonnage would not be unreasonable, would it?

A. Do you mean reduce their business?

Q. No, if they should bring down the amount received per ton thirty per cent and that reduction would only apply to twenty-five per cent of its total business, that would not be an unreasonable reduction, would it, taking into consideration the amount received per ton, per mile, as I have just stated in the former question?

A. I would hardly give you an opinion on that until I knew something more about the character of the business; for example, if a large proportion of the business is local business, which I have tried to demonstrate is so much more expensive than the other, then the general measure of reduction that you would adopt I don't think could be used with justice without a more thorough investigation to see where the earnings come from.

By Judge Woolworth:

Then you mean to say that the data furnished by Mr. Dilworth is not sufficient to enable you to determine whether the reduction would be a fair one or not?

A. I do not think the data sufficient; I would like to investigate that further.

By Mr. Dilworth:

Q. Would a reduction of thirty per cent. on one cent and eight mills, where the cost of carrying it is only half a cent, would that be an unreasonable reduction?

A. No, if the cost of the business, including interest, that they charge one cent for is only half a cent, I should say it would not.

Q. In making out a rate sheet the further you go the less per ton, per mile, you carry the freight; isn't that it; there is a greater reduction per ton, per mile?

A. That depends upon the competition; the further you go the more competition you may have, but the cost of transportation is not reduced in proportion to the mileage increased.

Q. Then in making out a tariff the last mile on a five hundred mile haul would be less probably than the first mile, would it not?

A. The cost?

Q. No, the tariff on it?

A. Shipping from here to the Missouri River?

Q. The tariff on freight from here to the Mississippi River would be greater per ton, per mile, than it would be to the Missouri River per ton, per mile; that is what I am getting at.

A. Why, on account of costing less than to the Missouri River?

Q. No, I say that is the general principle; in making out a tariff sheet the further you go the less the charge per ton, per mile?

A. That depends altogether upon the competition you meet; you do not charge less because you carry it further; you charge less because you meet more competition; the cost of transportation is not reduced just in proportion to the length of the haul; if you go over one division with a whole full train load, gives the cheapest rate per ton, per mile, and a long line is composed of a number of divisions; it does not reduce the cost of transportation per ton, per mile, whether the freight goes over one or more divisions, therefore the length of haul does not reduce the cost of transportation per ton, per mile.

Q. Then it is not the length of the haul that is taken into consideration in making tariffs?

A. No, not at all; competition is taken into consideration; I mean, of course, all freight that goes in fully loaded trains over the whole length of divisions; I do not mean loose freight.

Q. Competition is the only thing?

A. Competition; that is the only thing that fixes rates, but it happens generally that an increase in the length of the haul is an increase in competition.

RE-DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Is it not true that where the state reduces the rates theretofore charged by the company on business which begins and ends in the state, it necessarily reduces the rates upon the business which begins in the state and ends in another state?

A. Very likely; yes.

Q. Isn't that always so?

A. The rate, as I said, must be treated as a whole; if you cut them in two, and make a lower rate on a portion of a line, it destroys the adjustment of the rate.

Q. So that when Iowa reduces the rates on business local to Iowa, that is to say, business that begins and ends in the state, it necessarily effects the rates between, we will say, a point 300 miles west of the Missouri river in Nebraska and, we will say, Chicago or St. Louis or Kansas City; that follows as a matter of course, doesn't it?

A. I don't know whether I exactly understand you; it

is a pretty difficult matter to explain all the complications that arise from a change in rates; a change in rates on one road may compel a change on other roads; it may effect a large number of roads in every part of the country; when you change a rate on the canal from New York to Chicago sometimes it effects the rates between Nashville and Chattanooga; the rates are all adjusted fairly and evenly between all the competitive points in the country, and when you make any change in it you cannot tell how it will effect the general adjustment.

Q. Let me take a particular instance and see if I understand the matter correctly; a large part of the grain, and no inconsiderable part of the stock, which is raised in Nebraska comes to Chicago; Chicago is the market; between Nebraska and Chicago lies the State of Iowa; the State of Iowa reduces by the arbitrary exercise of what it claims to be its legitimate power, its local rates between the Missouri and the Mississppi rivers; doesn't that necessarily effect the rate between the rate between Nebraska and Chicago?

A. I suppose it makes the rate lower; it may effect the rates from Colorado to Chicago.

Q. Certainly it effects the Colorado rate as well?

A. You don't know where it may stop; it may go into Idaho or all over the country.

Q. If Iowa in the exercise of the power that it claims reduces the rates radically, and Illinois reduces its local rates in the same proportion radically, either the railroads

must reduce their rates from Nebraska to Chicago, or Nebraska must be shut out of the Chicago market, musn't it?

A. Yes.

Q. They must reduce the rates?

A. All the roads that run into Iowa.

Q. And the Nebraska farmer who raises corn and cattle and hogs cannot get to the Chicago market at all in a fair competition with his neighbor in Iowa and Illinois engaged in the same business?

A. I do not exactly follow you in that.

Q. This is the piont I want to make; if Iowa reduces its rates on grain from the Nebraska line to the Mississippi, and Illinois reduces its rate also, so that the farmers in those two states can get their produce into this market without paying a reasonable charge to their railroads for that service, the farmer in Illinois and Iowa gets altogether the advantage of the farmer in Nebraska, doesn't he?

A. If they reduce the rates in Illinois and Iowa and keep them up as you say from Nebraska your idea is the low rate from Iowa and Illinois is to the advantage of the Iowa shippers.

Q. Between Nebraska and this market lie the States of Iowa and Illinois; if those two states put the railroad rates very low.

A. Nebraska and Iowa.

Q. No, Iowa and Illinois; the Nebraska farmer is shut out of this market unless the railroad companies running from Nebraska make a corresponding reduction.

A. Yes, that I understand.

Q. And if the local rates in Iowa and Illinois are so low that the railroad companies cannot reduce the Nebraska through rates and live, then the Nebraska farmer is shut out of this market, isn't he?

A. Yes; if they don't reduce the rates in accordance with Iowa and Illinois.

Q. Clear away down?

A. Yes, sir.

Q. Then it is true that the reduction of the rate in Iowa and Illinois does affect the through rate from Nebraska to this market?

A. Yes.

Q. It drives Nebraska to reduce the rates correspondingly?

A. Yes, sir.

Q. And when on the other hand Nebraska reduces the rates in that state radically, they do necessarily affect the interstate rates, don't they?

Objected to by counsel for defendants, the Members of Board of Transportation, as irrelevant and leading.

A. It affects the interstate rates, yes.

Q. I understood you to say the cost of rolling stock is carried in the item of interest; did I understand you correctly?

A. It is charged to capital account.

Q. And upon the rolling stock interest is chargeable just as it is upon the track?

A. Yes; the road-bed, or anything else; it is the

property of the company, and an investment of the company in their road, the rolling stock.

Q. You don't mean to say that the rolling stock goes in to swell the item of interest on the road-bed and stationary improvements?

A. It is embraced in the capital.

Q. But the cost of the rolling stock is not added to the interest in the track and other property?

A. No.

Q. Is it included in the interest?

A. It is part of the total investment of the company.

Q. Dividends when made, and interest, are not carried by the companies into one item, in keeping their accounts, are they?

A. No; dividends are not carried into the interest account.

Q. I understand you freight agents, when making up their tariffs, do not take into account the cost of transportation, but railroads are always careful to secure, if they can, at least the average cost of transportation, are they not?

A. Yes, they make the average cost a criterion; if they get the average cost they are safe; I am speaking of the daily routine of making rates; I didn't mean to say they never paid the slightest attention to the cost of transportation; it is the business of the general manager; he must tell the freight agent, "You must not take any business for less than so much; it don't pay."

Q. Always being careful to get the cost of transportation at any rate?

A. Yes, sir.

Q. If a road is originated as a local road, beginning at a point in the state, and terminating at a point in the state at the time of its original charter, and at the time of its construction, and afterwards, it extends its line to a point beyond the state line into another state, so that it does both local and interstate business, do you think that the improvements made upon the original line, bringing it up from the condition it was in when completed as a local road to a higher standard of excellence, ought to be charged against the local business or through business?

Objected to by counsel for defendants, Members of the Board of Transportation, as immaterial, incompetent and irrelevant.

Q. I will illustrate to make my inquiry clear; the Burlington & Missouri River Railroad Company in Nebraska built its line from the Missouri River to Kearney, a distance of 200 miles, and stopped?

A. In the state?

Q. Yes; and it was a purely local road, without the prospect of ever being engaged in any business but that of a local road, unless it drew some of the interstate business from the Union Pacific, which it connected with at Kearney. Afterwards that company extended its line, we will say to Denver—

A. That is the Nebraska company?

Q. The Nebraska road; meanwhile it brought its original road from Plattsmouth to Kearney; it improved that road and brought it up to a higher standard; do you think the expense of doing that ought to be deducted from the amount upon which it is entitled to compensation in doing the local business?

Objected to by counsel for defendants, the Members of the State Board of Transportation, as irrelevant and immaterial, and wrong in its premises, the Burlington & Missouri River Railroad Company in Nebraska having built no line in that state except between Plattsmouth and Kearney.

A. I confess I do not understand the drift of the question; I do not see what you mean by charging the expense of the improvement of a road to the local road; I don't understand what you mean by that; you say something about deducting.

Q. We will say that the road from Plattsmouth to Kearney cost originally seven millions of dollars?

A. Yes; and they put it in order and it costs eight, say.

Q. We will say the road and its equipment and everything to get that road into good condition cost eight millions of dollars; now, it extends its line from Kearney, or from some point on its line—it extends its line through to Denver, and it puts on its road between Plattsmouth and Kearney a further expense, to bring it up to a higher standard, two millions of dollars?

A. Besides the eight?

Q. Yes; besides the eight?

A. In what way are those improvements made?

Q. Improving their road-bed and the iron and all that sort of thing, just as a road always grows up to be a better road as time goes on. Now, if we are to be paid for our local service—

A. The local service on that Nebraska road?

Q. On that Nebraska road; something upon our investment shall we be paid on the eight millions of dollars only, or upon the whole investment of ten millions that we put betwee Plattsmouth and Kearney?

A. You mean whether you can charge—I suppose you want to ascertain the cost of transportation over that road, and want to know whether you can charge the two millions of dollars you have expended on that road—whether you could bring that into the account as an interest charge against the road in Nebraska.

Q. Yes; that is what I want to know.

A. Or whether you should charge it to the other road.

Q. To the through business.

A. It is a question; I am not quite sure whether the road don't profit by the improvements that you put on it.

Q. Of course the Nebraska road did?

A. It is a question whether the road might not be operated cheaper than it would have been if you had not made the improvements; good iron is no objection to a local road; a good embankment and everything in first class order is no objection.

Q. But supposing the expenditure of the two millions

of dollars was a legitimate and fair expenditure in improving the road?

A. Yes, sir, improving the road; I don't see why you can make any distinction in improving the road; the road itself is benefitted by this improvement.

Q. And we are entitled to pay on the ten millions of dollars; we are entitled to pay upon the capital stock invested in bringing that road up to its present condition, just as if we had not built the road through to Denver.

A. I don't see why you should cut that road in two and make two separate items of it; the road was improved, and in the improved condition you worked the road cheaper than if it was an old road; it might have been an advantage; no doubt it was an advantage.

Q. We will assume that it was an advantage to the local road.

A. Yes, sir, belonging to the one corporation. I don't see exactly the point, why you should make a distinction in the expense; that is the way it strikes me, but there may be something behind it that I don't understand.

RE-CROSS-EXAMINATION.

By Mr. Dilworth:

Q. If Nebraska reduces the local rate, that is, on tariff originating at a point within the limits of the state, and terminating at another point within the limits of the state, will that affect the through rate upon anything

shipped from a point within the state to a point without the state; would it necessarily be so?

A. Not necessarily so; it depends upon what the reductions are.

Q. Leaving out the question of competition, will it necessarily affect the interstate rate?

A. That is very difficult to answer; you have to know the amount of the reduction, and I am not familiar with the locality sufficiently to answer that question; but as a rule I can only say that the least change in the rate in any one particular brings about changes all over the country.

Q. That is because of the competition?

A. Yes, sir; that is the benefit of competition, speaking from the granger's point of view.

Judge Woolworth:

Supposing the rate from Hastings, 300 miles west of the Missouri River, to Omaha, on the Missouri River, is reduced one-quarter, doesn't that necessarily affect the rate from Hastings?

A. From the state line to Denver?

Q. No, coming this way, from Hastings to Chicago.

A. That will affect the rate from the Missouri River to Chicago; that is, the total through rate will be less, but if you have any competition in Hastings, or if you have indirect competition with some other point that is affected by Hastings, it will change the rate on the other road; in the state of Nebraska there are other roads, the Union Pacific, I suppose, may be affected by it, and they would have to

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change the rate; they would not let the business go to Hastings if they could help it; it is very difficult, however, to study out the problem; the less you have to do with changing rates the better you are off.

Mr. Dilworth:

The legislature of the State of Nebraska last winter passed a local rate reducing the rate on grain from Hastings to Omaha about twenty or twenty-five per cent; the only effect that had was that the railroads raised the rate from Hastings to Chicago, the through rate, two cents a hundred; how can you account for that.

A. I don't see the connection between the two; it may have been for some other reason that does not appear.

Q. Did they want to carry all the grain from Hastings to Omaha instead of to Chicago?

A. That is not reasonable; they would rather carry it to Chicago.

Signature waived by agreement of counsel.

OLIVER W. MINK was produced as a witness in behalf of plaintiffs, and being first duly instructed, cautioned and sworn to speak the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Will you state your name, age, occupation and place of residence?

A. Oliver W. Mink, age 43; occupation, Receiver of

The Union Pacific System. I am a resident of Brookline, Massachusetts.

Q. Before your appointment as Receiver of The Union Pacific System had you any relations to that railway company? If so, what were they?

A. I had been vice president of The Union Pacific Railway Company for a short time, and prior to that, for a number of years, the comptroller of that company, and I occupied the same position, substantially, with reference to all the other companies forming The Union Pacific System. My connection with the company dates from 1872.

Q. Since that time you have been in the auditing department, have you?

A. The auditing, financial and executive departments.

Q. I desire from you a description of The Union Pacific Railway System, and for that purpose I will ask you in the first place, what are the lines which form The Union Pacific Railway Company proper?

A. The Union Pacific Railway Company owns the line extending from Council Bluffs, in Iowa, to Ogden, in Utah, and the line extending from Kansas City, Missouri, by way of Denver, to Cheyenne, in Wyoming, and also the branch extending from Leavenworth, Kansas, to Lawrence Junction, Kansas.

Q. What is the length of these different lines you have just mentioned?

A. The length of the line from Council Bluffs to Ogden is 1,029.49 miles. The length of the line from Kansas

City to Denver is 639.01 miles, and the length of the line thence to Cheyenne is 106.08 miles. These aggregate, including a few spurs and the line between Leavenworth and Lawrence, 1,829.49 miles. The company which built the line from Omaha to Ogden was The Union Pacific Railroad Company, incorporated by the act of 1862.

Q. And the line from Kansas City to Denver was the line which, under different names, was consolidated with The Union Pacific Railroad Company, was it not?

A. It was the line known at the time of the consolidation as the Kansas Pacific Railway Company. The consolidation was effected in 1880.

Q. And the line from Denver to Cheyenne, by what company was that built? And was that one of the constituent companies of The Union Pacific Railway Company?

A. It was built by the Denver Pacific Railway and Telegraph Company, and was one of the constituents of the present Union Pacific Railway Company.

Q. Now, will you proceed, Mr. Mink, to mention the proprietary or subsidiary lines of The Union Pacific System?

A. I will do this with a little more order if you do not object to my referring to reports?

Q. Not at all.

A. The so-called Union Pacific System comprises, in addition to the lines owned by The Union Pacific Railway Company, the lines owned by the following companies:

Carbon Cut-Off Railway. This company owns the line

extending from Allen Junction, in Wyoming, to Hanna, in Wyoming, a distance of 19.17 miles.

The so-called Denver & Boulder Valley Railroad owns, or formerly owned, the line extending from Brighton, in Colorado, to Boulder, in Colorado, a distance of 26.97 miles. The title to this railroad line is now in the trustees, under the consolidated mortgage of the Kansas Pacific Railroad.

The Denver, Leadville & Gunnison Railway Company owns the net-work of railroads traversing the mountain region west and southwest of Denver, which system comprises 324.72 miles. This is a narrow guage line.

The Echo & Park City Railroad Company owns the line from Echo, in Utah, south to Park City, in that territory, a distance of 30.10 miles.

The Junction City & Fort Kearney Railway owns a line extending from Junction City, Kansas, to Concordia, Kansas, a distance of 70.86 miles, and from Lawrenceburg, Kansas, to Belleville, Kansas, a distance of 17.14 miles; in all, 88 miles.

The Kansas Central Railroad Company owns a line extending from Leavenworth, Kansas, to Miltonvale, Kansas, 165.49 miles.

The Laramie, North Park & Pacific Railway owns the line extending from Laramie, Wyoming, to Soda Lakes, a distance of 13.36 miles.

The Omaha & Republican Valley Railway Company owns the line extending from Valley, Nebraska, to Manhattan, Kansas, including the Blue Springs spur, 189.69.

From Valparaiso to Stromsburg, Nebraska, 53.30 miles; from Columbus to Norfolk, Nebraska, 50.37 miles; from Oconee to Albion, 34.54 miles; from Genoa to Cedar Rapids, Nebraska, 30.55 miles; Grand Island to Ord, Nebraska, including the so-called Scotia spur, 62.14 miles; St. Paul to Loup City, Nebraska, 39.40 miles; Boelus to Pleasanton, Nebraska, 22 06 miles. These various lines aggregate 482.05 miles.

Q. Did you state by what company they are operated now?

A. These various lines are now owned by the Omaha & Republican Valley Railway Company, and are operated as a part of the system generally known as The Union Pacific System. The Oregon Railway & Navigation Company System is made up of several lines, aggregating 1,059.33 miles. This system traverses that section of country lying west and north of Huntington, Oregon, extending thence to Portland, near the mouth of the Willamette River, and to Spokane Falls, and east to Burke and Mullan, in Idaho. The Oregon Short Line & Utah Northern Railway Company owns the line extending from Granger, in Wyoming, northwest to Huntington, in Oregon, with a line extending from Garrison, in Montana, south to Milford, in Utah. These lines, and various spurs and branch lines, make an aggregate of 1,424.84 miles.

The St. Joseph & Grand Island Railroad Company. This company owns the line extending from St. Joseph, in

Missouri, to Grand Island, in Nebraska, a distance of 251.06 miles.

The Kansas City & Omaha Railroad Company owns the line from Fairfield, Nebraska, to Stromburg, Nebraska, a distance of 64.35 miles, and from McCool Junction to Alma, a distance of 129.33 miles, making in all 193.68 miles.

The Salina & Southwestern Railway Company owns a line extending from Salina, Kansas, to McPherson, Kansas, 35.47 miles. The Solomon Railroad Company owns the line extending from Solomon to Beloit, Kansas, 57.04 miles.

The Union Pacific, Denver & Gulf Railway Company owns the system of railroads extending from Orin Junction, in Wyoming, south and east as far as Texline, in Texas, with a line from Julesburg, Colorado, to La Salle, Colorado, and various other branch and feeding lines, aggregating 885.62 miles. Its trackage rights represent 108.46 miles additional.

The Fort Worth & Denver City Railway Company extends from Texline, in Texas, to Fort Worth, in Texas, 469.15 miles.

The Union Pacific, Lincoln & Colorado Railway extends from Salina, by way of Colby, to Oakley, in Kansas, 225.35 miles.

The aggregate mileage of the roads referred to above is 7,681.72 miles. In addition to this The Union Pacific Railway Company has a proprietary interest in 475.80 miles of railroad lying in Montana and Kansas which are oper-

ated under independent organizations. The aggregate of all the lines is 8,157.52 miles.

Q. Was the Omaha & Republican Valley Railroad Company a corporation originally incorporated under that name, or was it the consolidation of various other companies? If a consolidation of various other companies, give the names of the various other companies which go to form that company.

A. The Omaha & Republican Valley Railway Company dates from February 3, 1887, when The Omaha & Republican Valley Railway Company, of Nebraska, and The Blue Valley Railway Company were consolidated into what is now known as the Omaha & Republican Valley Railway Company. Prior to that time, and on June 26, 1886, The Omaha & Republican Valley Railroad Company and The Omaha, Niobrara & Black Hills Railroad Company were consolidated into The Omaha & Republican Valley Railway Company of Nebraska, and on July 1st, 1886, The Marysville & Blue Valley Railway Company and The Manhattan & Blue Valley Railway Company were consolidated into The Blue Valley Railroad Company.

Q. What is the capital stock of the company now?

A. $2,420,550.

Q. How many mortgages are there upon that property?

A. Three; the first, known as The Omaha & Republican Valley Railroad seven per cent. mortgage, the bonds

on which become due on July 1st, 1909, of which there are $1,559,000 outstanding.

Q. On what property is that mortgage?

A. The seven per cent. mortgage covered all of the property owned by The Omaha & Republican Valley Railroad Company prior to the 26th of June, 1886, as I now remember it—225.36 miles. The consolidated first mortgage, under which bonds to the amount of $3,136,000 are outstanding; the bonds become due March 1st, 1927; and the first five per cent. extension mortgage, under which bonds to the amount of $1,246,000 have been issued, and which become due May 1st, 1927.

Q. What are the relations of that company to The Union Pacific Railway Company?

A. The Union Pacific Railway Company owns $2,401,023.77 out of $2,420,550 of the capital stock of that company. It also owns the following bonds: $1,557,000 Omaha & Republican Valley Railroad Company seven per cent. bonds; $3,037,000 Omaha & Republican Valley Railway Company consolidated first mortgage bonds, and $1,246,000 Omaha & Republican Valley Railway Company first mortgage extension bonds. These bonds are pledged in great part under various trusts made by The Union Pacific Railway Company. We have no other relations with The Omaha & Republican Valley Railway than that of shareholder and creditor.

Q. The operation of The Republican Valley Company

is in the hands of the same officers who operate The Union Pacific Railway System, is it not?

A. Yes, sir; the same individuals, generally speaking, are officers of all companies in The Union Pacific System.

Q. In what treasury are the payments made of the interest on the bonds of The Republican Valley Railway Company?

A. The Omaha & Republican Valley Company has never earned its interest, and has seldom, if ever, earned its operating expenses. So far as any payments of interest on its bonds have been made, the moneys have been advanced in the nature of a loan on book account by The Union Pacific Company. The Omaha & Republican Valley road is, therefore, a very large debtor to The Union Pacific Company.

Q. Can you state the deficits for the years 1889 to the present time of The Omaha & Republican Valley, which have been met by The Union Pacific Railway Company, or out of the earnings of that company.

A. In 1889 the deficit was.....$356,256 27
In 1890 the deficit was..... 471,535 63
In 1891 the deficit was..... 515,779 95
In 1892 the deficit was..... 335,845 34

Q. How were these decficits cared for?

A. The deficits enumerated by me represent the excess of the operating expenses, taxes, interest on bonds and some small sinking fund contributions, over and above the amount of the gross earnings and the entire miscellaneous earnings

of the company. As a very large part of the funded debt is owned by The Union Pacific Railway Company, The Union Pacific Company has merely omitted to present its coupons, or some of them, for collection. Therefore, the deficit appears more in the nature of unpaid interest obligations in respect to these particular years than it does in the way of an open or book account.

Q. And these interest coupons are held by The Union Pacific Railway Company?

A. They are owned by The Union Pacific Railway—in some cases held by it, in other cases held under trusts created by it.

Q. I pass now to The St. Joseph & Grand Island Railroad Company. Will you state what the capital of that company is?

A. $4,600,000.

Q. Is any part of that held by The Union Pacific Railway Company? If so, what proportion?

A. $2,301,500 is owned by The Union Pacific Company.

Q. What are the mortgages upon that property?

A. There is a first mortgage of $7,000,000 bearing interest at six per cent., the bonds under which become due the first day of May, 1925, and there is a second mortgage of $1,680,000 bearing five per cent. interest, the bonds under which become due July 1st, 1925. This so-called second mortgage is in fact a second mortgage income obligation.

Q. Has The Union Pacific Company assumed, then, a

liability on account of these bonds and this mortgage? Have they guaranteed them or otherwise?

A. It is with respect to the $7,000,000 mortgage, its obligations there being a traffic contract, by which it agrees to make good to the St. Joseph & Grand Island Railroad Company any deficit which might appear in its net income as opposed to the sum which might be required to discharge the sum needful to pay interest on its first mortgage bonds.

Q. Does The Union Pacific Railway Company hold any of these bonds?

A. It does not.

Q. Has The Union Pacific Railway Company or its active managers any control over the management of The St. Joseph & Grand Island Railroad Company?

A. It has under the traffic contract, what I should say was absolute control, but so many contentions have arisen with reference to the rights of the second mortgage or income bondholders that for some time the road has been operated independently of The Union Pacific for the purpose of quieting the second mortgage bondholders, so that to-day the line is operated as if it were no part of The Union Pacific System, though the revenues and the losses are always included in our published returns.

Q. And this becomes an obligation of the company, under the traffic agreement, does it?

A. With separate managers?

Q. No, you report the revenues in your annual report?

A. They are reported in our published returns, just as on the other hand, the deficits which we are obliged to make are included in our published returns.

Q. Have there been deficits for the last four years of that company, which The Union Pacific Railway has been obliged to meet, or has met? If there has, you may state them for each year.

A. The deficit was for 1889.....$ 69,002 85
For 1890 it was..... 185,328 14
For 1891 it was..... 260,296 48
For 1892 it was..... 63,466 90

Q. Has the Union Pacific Railway Company paid these deficits or provided for them?

A. It has.

Q. What mortgages are upon the roads of the Union Pacific Railway Company proper, being the 1,800 and odd miles of road first mentioned by you. Give if you can, the date, parties, amount, rate of interest, when the interest is payable, and when the principal becomes due.

A. The first mortgage of the Union Pacific Railroad Company covering the line between Omaha and a point five miles west of Ogden, in Utah, made, I think, in 1866, the bonds under which become due from 1896 to 1899, and under which bonds to the amount of $27,229,000 are outstanding. The coupons on these bonds are payable in January and July. The trustees under the mortgage are F. Gordon Dexter and Oliver Ames. Second, the land grant seven per cent. mortgage of The Union Pacific Railroad

Company, the bonds under which became due in 1887 and 1889, of which only $7,000 are outstanding and unpaid. The sinking fund eight per cent. mortgage of The Union Pacific Railroad Company made in 1873, under which bonds to the amount of $3,730,000 are outstanding. These bonds become due on September 1, 1899. The interest coupons are payable in March and September, and the trustee under the mortgage is the Union Trust Company of New York. This is a first mortgage on the lands granted to The Union Pacific Railroad Company, and a third mortgage on the railroad extending from Omaha to Ogden. The Union Pacific Railroad Company, prior to its consolidation, in 1880, had issued a collateral trust six per cent. indenture. Under this indenture there are still outstanding $3,672,000 in six per cent. bonds, which become due July 1, 1908; and the interest coupons on which are payable in January and July. The Union Trust Company of New York is the trustee of this indenture. The Union Pacific Railroad Company's Omaha Bridge, eight per cent. mortgage. This mortgage was made in 1871. There are now outstanding $565,000 in bonds secured thereunder, which are due, except as they may be drawn pursuant to the sinking fund provision contained in the mortgage, April 1, 1896. The interest coupons are payable in April and October, and the trustees under the mortgage are J. Pierpont Morgan and Edwin F. Atkins. There is a vacancy in this trust, one of the trustees having died.

The Union Pacific Railway Company's collateral trust

five per cent. bonds. This indenture is made in 1883 and bonds to the amount of $4,677,000 payable on December 1, 1907, are still outstanding; the interest coupons are payable in June and December; and the New England Trust Company of Boston is the trustee under the indenture.

The Union Pacific Railway Company's Omaha Bridge renewal five per cent. bonds, the mortgage securing these bonds was made in 1885. The bonds are payable in 1915. There are still outstanding $1,056,000 bonds, the coupons of which become due in April and October. The Central Trust Company of New York is the trustee.

The Union Pacific Railway Company equipment. trust five per cent. indenture made in October, 1887; there are $2,010,000 in bonds issued under this trust still outstanding. The coupons are payable in April and October. The American Loan and Trust Company is the trustee under the indenture.

Q. Mr. Mink, have you stated with reference to the collateral trust and others what it is the bonds are a trust upon?

A. I have not.

Q. I think perhaps you had better do that in this connection. Do it in a general way, Mr. Mink.

A. There are behind the six per cent. collateral trust bonds of The Union Pacific Railroad Company, the first mortgage seven per cent. bonds of the Colorado Central Railroad Company, that being one of the constituent companies of what is now known as the Union Pacific, Denver

& Gulf Railway Company, certain first mortgage bonds of the Utah & Northern Railway Company, one of the constituent companies of the present Oregon Short Line & Utah Northern Railway and certain Omaha & Republican Valley Railroad Company first mortgage seven per cent. bonds, that company being one of the constituent companies of the Omaha & Republican Valley Railway Company.

There are behind the collateral trust five per cent. bonds certain bonds of the Colorado Central and the Utah & Northern, both of which companies I have already referred to, certain bonds of the Utah Southern Railway Extension Company, which is now a part of the Oregon Short Line & Utah Northern Railway Company, and certain seven per cent. bonds of the Omaha & Republican Valley Railroad, and certain five per cent. bonds of the Omaha & Republican Valley Railway Company.

Q. Just state in that connection, without my asking another question whether these bonds are secured by a mortgage upon the corporate property of The Union Pacific Railway Company.

A. Whether the collateral trust bonds are?

Q. Yes. I just want to show the fact that there was no mortgage upon the physical property or the company.

A. The collateral trust issues of The Union Pacific Company are secured only by the pledge of the underlying bonds to which I have referred. They mortgage no part of the railroad of the corporation known as The Union Pacific Company.

The Union Pacific Company has also made a collateral trust four and a half per cent. indenture, under which bonds to the amount of $2,030,000 are still outstanding. This indenture was made in 1889, and the bonds issued thereunder become due on November 1st, 1918. The coupons are payable in May and November, and the New England Trust Company of Boston is the trustee. This bond is secured by a pledge of Denver, Leadville & Gunnison Railway Company four and one half per cent. bonds. I ought to say, perhaps, with reference to the collateral trust issues that, though the bonds become due on the dates enumerated by me, yet under the provisions of the trusts, a certain part or installment of this debt is payable every year, that being a common provision with reference to collateral trust issues.

The Union Pacific Railway Company has also made what is known as its Kansas Division and collateral five per cent. mortgage, under which bonds to the amount of $5,000,000 have been issued. This mortgage was made in 1891, and the bonds issued thereunder become payable in 1921. The coupons are payable in May and November, and the Mercantile Trust Company, of New York, is the trustee. These bonds are all held by Drexel, Morgan & Company, as trustees, as part security for the three-year notes to which I will refer later on.

The Union Pacific Railway Company's collateral trust six per cent. notes; the indenture securing these notes was made in 1891. The notes become due on August 1, 1894. The interest is payable in February and August. Drexel,

Morgan & Company, of New York, are the trustees; there are still outstanding of these notes $11,430,000.

The Kansas Pacific Railway Company, or rather The Union Pacific Railway Company, eastern division, as it was known when the mortgage to which I was about to refer was made, issued its first mortgage in 1865 for $2,240,000. All of the bonds issued thereunder being still outstanding. The coupons are payable in February and August. H. M. Alexander is the remaining trustee thereunder.

Q. What does that cover?

A. That is a first mortgage on the 140 miles of the line of the Union Pacific Company extending west from Kansas City. The same company issued in 1866 its first mortgage for $4,063,000, the bonds under which are still outstanding, and they become payable in 1896. The coupons on these bonds are payable in June and December. There is a vacancy in this trust. This is a first mortgage on the 254 miles of road next beyond that section of road covered by the issue of $2,240,000 last above referred to.

The Kansas Pacific Railway Company has also issued its Denver extension mortgage. This mortgage was made in 1869. There are still outstanding under the mortgage $5,887,000 in bonds, which are payable in 1899; the coupons are payable in May and November and the trustees are John A. Stewart, Wm. Endicott, Jr., and August Rutten. This is a first mortgage on that part of the Kansas Pacific line commencing at a point 394 miles west of Kansas City and extending thence west to Denver. It also covers the

land grant of the so-called Kansas Pacific Company extending from a point 380 miles west of Kansas City to Denver. The Kansas Pacific Company also issued its consolidated six per cent. mortgage in 1879, the bonds under which become due on May 1st, 1919. There are $11,724,000 of these bonds still outstanding, the coupons on which are payable in May and November. Russell Sage and George J. Gould are the present trustees under this indenture. This mortgage is practically a first mortgage on the lands east of the 380th mile post west of Kansas City, and a second mortgage on the lands thereof. It is also a second mortgage on the road west of the 394th mile post, and a third mortgage on the line extending from Kansas City and Leavenworth to the 394th mile post. It also covers through collateral trust provisions, several of the branch lines in Kansas and it also practically covers the roads and the lands from Denver north to Cheyenne. There are also some income bonds of the Kansas Pacific Railway Company outstanding for small amounts, fractional parts of an issue, the aggregate of which is only $35,000.

There are also a few bonds remaining out on the line between Leavenworth and Lawrence, $15,000 in amount.

The Denver Pacific Railway and Telegraph Company made in 1869 its first mortgage for $2,500,000; there are still outstanding under this mortgage bonds to the amount of $975,000, but $971,000 of these bonds are held as security under the Kansas Pacific Consolidated Trust, so that in fact there are only $4,000 outstanding against the

company. Besides these various issues of bonds the United States has a lien on that part of the Union Pacific Company's railroad extending from Omaha to a point five miles west of Ogden.

Q. How many miles in length is the whole line?

A. 1,034 49-100 miles to secure an issue of bonds made by the United States, amounting to $27,236,512 and the accumulation of interest thereon. The United States also has a lien on that part of our line extending from the Missouri-Kansas State line to a point about 394 miles west thereof in Kansas to secure an issue of bonds made by the United States for $6,303,000 and the accumulations of interest thereon.

The total amount of the indebtedness of the Union Pacific Company to the United States on account of the bonds issued in its behalf including the Kansas Pacific line, together with the balance of interest is $52,948,663.91. In reaching this amount I have not taken into account the sum of $1,620,474.31 paid by the United States as premium on bonds bought for the sinking fund, the sinking fund in my answer having been looked upon as representing bonds at par.

Q. Well, will you please state whether the company has met the clause of the Thurman Act since the passage of that act?

A. It has.

Q. And how has that been done?

A. The obligations of the company under the Thur-

man Act have been met as provided in the act, either by the application of moneys earned in government transportation accounts or from the application of such accounts and the payment of money besides.

Q. Since 1889 has the company met all the clauses of the Thurman Act?

A. It has.

Q. Can you state what they have done during those years?

A. I am unable to answer you specifically as to the Thurman Act here, though I could do so at my office in Boston; but I can say that the obligations of the company under the Thurman Act, which applies to that part of the line extending from Omaha to Ogden, and the obligations of the company under the legislation of 1862 and '64, which applies to that part of our line in Kansas between Kansas City and a point three hundred and ninety-four miles west thereof were:

For the year 1889.....$1,140,379.04
For the year 1890..... 1,041,153.43
For the year 1891..... 1,278,488.82
For the year 1892..... 1,338,044.37

The greater part of these annual obligations, I may say, appertains to the line from Omaha to Ogden; I should say from eighty to eighty-five per cent.

Q. What is the capital stock of The Union Pacific Railway Company?

A. $60,868,500.00.

Q. Will you tell what property this capital stock represents?

A. It represents, subject to the company's indebtedness, the railway lines of The Union Pacific Railway Company, and the equity represented by the bonds and the capital stocks owned by The Union Pacific in all of the other lines making up The Union Pacific System, which I have already enumerated in detail, together with certain other miscellaneous investments.

Q. Has The Union Pacific Railroad Company and the Union Pacific Railway Company made dividends upon its capital stock?

A. They have for a number of years. The Union Pacific Railroad Company paid dividends for a number of years prior to the consolidatlon; and for a number of years after the consolidation The Union Pacific Railway Company paid dividends. No dividends have been paid since 1884.

Q. Why was the payment of dividends suspended at that time, Mr. Mink?

A. Because in the judgment of the directors the earnings applicable to the payment of dividends were not sufficient to justify the declaration of dividends.

Q. Well, what was the occasion of that?

A. It was due in great part to the falling off of gross earnings, and that in turn was due to the completion of rival and competing lines.

Q. You mean rival and competing lines across the continent, do you?

A. Yes, I do.

Q. Among them, which?

A. Notably the completion of The Denver & Rio Grande Company to Ogden, which, as I now remember it, was completed about 1884. The completion of this line naturally had a very disastrous effect upon the revenues of The Union Pacific Railroad. Meantime, the country lying east of Denver had been invaded by various lines and the revenues of The Union Pacific Company were rapidly falling off in every direction.

Q. After the Rio Grande, what other company came into the field?

A. I am not able to answer you definitely, but my recollection is that the opening of the line to California by the southern route and the extensions made by The Atchison, Topeka & Sante Fe, The Chicago, Burlington & Quincy, and The Chicago, Rock Island & Pacific constitute the principal rivals invading the country which had formerly been served by The Union Pacific Company.

Q. Mr. Mink, has the capital stock of the company at any time been considerably increased since its original organization?

A. At the consolidation of the company in 1880 our capital stock was in round figures about $50,000,000. In 1881 an issue of capital stock was made by the consolidated company at par for cash.

Q. Do I understand you to say that the subscribers for the new stock paid for it in cash?

A. They did, and at par. The issue amounted to $10,106,200.

Q. I would like you to state, with such particularity as you can, what the equipment of The Union Pacific Railway Company is, to what divisions or departments of the system it is attributable, and what the estimated or book value of the equipment is?

A. The equipment of The Union Pacific Railway Company, excluding its interests in certain Pullman cars, is made up of 351 passeng , mail, express and baggage cars, 10,493 freight cars, 132 tfit, derrick, wrecking and other cars, making a total of 10,976 cars. It also owns 534 locomotives. The value of this equipment on the 31st day of December last was approximately $13,307,129. This represents an average of $7,300 a mile for each mile of railroad owned by the parent or Union Pacific Railway Company.

Q. Mr. Mink, there is a charge in the answer in this case that your company bought a large amount of rolling stock with a view of absorbing its earnings and giving a false complection to its affairs. I wish you to state what the fact is about that?

A. With reference to what year is the charge made?

Q. The charge, I believe, was made for 1892, it may be 1891?

A. Without reference to the year, I am in a position to state definitely that there is no truth in that charge, whether applied to the year 1892 or to any other year. The purchases of the company for equipment have been made

on the recommendation of its officers, and have usually been passed upon by the president or the members of the executive committee, and I am sure that all purchases of equipment have been on a fair, reasonable and conservative basis, and never for the purpose of inflating or in any way making it appear that the net revenues of the company for any given year were smaller than they otherwise would have been.

Q. Will you please state what payments have been made by The Union Pacific Railway and by the constituent companies of The Union Pacific Railroad Company since 1869 for additional facilities, sidetracks, terminal grounds, additional equipments, etc., etc.

A. I had before me some figures which date back to November 6th, 1869, that having been the date when the road was declared to have been completed within the meaning of the charter, from which it appears that the expenditures on the Council Bluffs-Ogden line, for the purposes stated by you, were as follows:

November 6, 1869, to November 5, 1870....	$ 896,977.03
November 6, 1870, to November 5, 1871....	66,849.73
November 6, 1871, to November 5, 1872....	497,875.85
November 6, 1872, to November 5, 1873....	155,739.72
November 6, 1873, to November 5, 1874....	177,124.57
November 6, 1874, to November 5, 1875....	2,810.17
November 6, 1875, to November 5, 1876....	8,825.00
November 6, 1876, to November 5, 1877....	170,555.41
November 6, 1877, to June 30, 1878.....	225,326.07
July 1, 1878, to December 31, 1878.....	107,724.76
January 1, 1879, to December 31, 1879. ...	101,456.92
January 1, 1880, to December 31, 1880.....	762,440.87
January 1, 1881, to December 31, 1881.....	1,409,817.27

715

January 1, 1882, to December 31, 1882.....	382,230.82
January 1, 1883, to December 31, 1883.....	203,048.12
January 1, 1884, to December 31, 1884.....	218,749.09
January 1, 1885, to December 31, 1885.....	182,824.16
January 1, 1886, to December 31, 1886.....	1,602,674.73
January 1, 1887, to December 31, 1887.....	1,064,223.92
January 1, 1888, to December 31, 1888.....	1,532,947.74
January 1, 1889, to December 31, 1889.....	1,052,209.61
January 1, 1890, to December 31, 1890.....	2,009,175.22
January 1, 1891, to December 31, 1891.....	346,842.72
January 1, 1892, to December 31, 1892.....	162,783.16
Or say for that period.....	13,341,232.66

By Mr. Webster:

The State Board of Transportation objects to the testimony of this witness touching the cost of additional equipment for the year 1869, for the reason that it appears by his testimony that his connection with the road began in 1892, whereby he can have no personal knowledge of such expenditures prior to his connection with the road.

Q. State the rates and dates of payment of all dividends by The Union Pacific Railroad Company, and also the Union Pacific Railway Company?

A. The following are the dates of payment of all dividends declared by the two companies:

DATE	RATE
1875, July 1.....	1½ per cent
1875, October 1.....	2 "
1876, January 1.....	2 "
1876, April 1.....	2 "
1876, July 1.....	2 "
1876, October 1.....	2 "
1877, January 1.....	2 "

DATE	RATE
1877, April 1	2 per cent
1877, July 1	2 "
1877, October 1	2 "
1878, January 1	2 "
1878, April 1	2 "
1878, October 1	1½ "
1879, January 1	1½ "
1879, April 1	1½ "
1879, July 1	1½ "
1879, October 1	1½ "
1880, January 1	1½ "
1880, April 1	1½ "
1880, July 1	1½ "
1880, October 1	1½ "
1881, January 1	1½ "
1881, April 1	1¾ "
1881, July 1	1¾ "
1881, October 1	1¾ "
1882, January 2	1¾ "
1882, April 1	1¾ "
1882, July 1	1¾ "
1882, October 2	1¾ "
1883, January 1	1¾ "
1883, April 1	1¾ "
1883, July 1	1¾ "
1883, October 1	1¾ "
1884, January 1	1¾ "
1884, April 1	1¾ "

The rate and amount of dividends declared, arranged in yearly periods, are as follows:

STATEMENT showing the date, rate and amount of dividends declared by the Union Pacific Railroad and Railway Companies:

DATE.	RATE.	AMOUNT.
1875	3½	$1,286,075.00
1876	8	2,939,600.00
1877	8	2,939,600.00
1878	5½	2,020,975.00
1879	6	2,204,700.00
1880	6	2,835,478.50
1881	6¾	3,772,375.13
1882	7	4,260,784.50
1883	7	4,260,788.00
1884	3½	2,130,394.00

Q. I recall your attention to the Kansas City & Omaha Railroad Company. Will you state the relations of that company to The Union Pacific Railroad Company?

A. The Union Pacific Railway Company owns $1,725,375 of the stock of that company out of a total issue of $4,408,100; it also owns $1,595,500 in bonds out of a total issue of $2,713,000.00. The relation of The Union Pacific to the Kansas City & Omaha is first of all through its ownership of the stock of the latter company and next through the traffic contract which was made in 1887 between The Union Pacific Railway Company and the St. Joseph & Grand Island Railroad Company on the one hand, with the Kansas City & Omaha Company on the other. Under this last-named contract, any deficits which might appear in the current revenues of the Kansas City & Omaha Company as opposed to the amount required to discharge the interest on its first mortgage bonds are to be paid by The Union Pacific and St. Joseph & Grand Island Companies in the proportion in which the two guarantor companies derive

gross earnings from the business interchanged with the Kansas City & Omaha Company.

Q. Can you tell me what the deficits have been for the last five years?

A. The deficit of the Kansas City & Omaha Company

For 1889 was	$167,974.92
For 1890 it was	160,139.50
In 1891 it was	144,475.75
In 1892 it was	118,364.80

Q. Give in condensed form the results arising from the operation of the entire Union Pacific System from the year 1890 to the present time, stating particularly the gross earnings and other income, working expenses, and other charges, United States requirements and sinking fund requirements for each year separately.

A. Year ending December 31, 1889:

Gross earnings	$40,941,063.02
Other income	628,036.21
Total income	$41,569,099.23
Working expenses	$25,620,565.11
Other charges, including taxes	12,909,781.49
United States requirements	1,155,007.69
Sinking fund requirements	907,981.66
Total expenditures	$40,593,335.95
Balance of income	$975,763.28

Year ending December 31, 1890:

Gross earnings	$44,538,201.64
Other income	1,081,784.53
Total income	$45,619,986.17

Working expenses	$30,635,927.24
Other charges, including taxes	13,140,883.94
United States requirements	1,053,723.11
Sinking fund requirements	1,064,488.74
Total expenditures	$45,895,023.03
Balance of income—deficit	275,036.86

Year ending December 31, 1891:

Gross earnings	$44,006,730.71
Other income	1,594,323.61
Total income	$45,601,054.32
Working expenses	$28,680,548.61
Other charges, including taxes	13,474,333.68
United States requirements	1,293,230.44
Sinking fund requirements	1,087,900.84
Total expenditures	$44,536,013.57
Balance of income	$1,065,040.75

Year ending December 31, 1892:

Gross earnings	$45,025,176.40
Other income	1,548,118.99
Total income	$46,573,295.39
Working expenses	$28,513,840.41
Other charges, including taxes	13,538,325.25
United States requirements	1,358,133.52
Sinking fund requirements	1,093,239.17
Total expenditures	$44,503,538.35
Balance of income	$2,069,757.04

A recess was here taken to 1:45 P. M.

1:45 P. M.—Present, same parties as before.

CROSS-EXAMINATION BY MR. WEBSTER, ON BEHALF OF THE STATE BOARD OF TRANSPORTATION.

Q. Do you know the date when the construction of the main line of the Union Pacific road was begun?

A. I do not, I think it was some time in 1864.

Q. Can you state the date when the main line from Omaha to Ogden was completed?

A. It was completed within the meaning of the act, on the 6th of November, 1869; I should say that would be a fair date to fix for this purpose.

Q. In speaking of the main line of The Union Pacific Railroad Company, do you understand me to mean from the Missouri River west to Ogden?

A. I do; yes, sir.

Q. Up to the date of the completion of the line of road, what was the amount of bonds issued and outstanding upon that property?

A. I am unable to state; I think the $27,000,000, or thereabouts, in first mortgage bonds, had been issued. The $27,000,000, or thereabouts, in United States bonds, had been issued to the company, and I believe sold. A land-grant mortgage debt of about $10,000,000 was, I think, outstanding, and, as I remember it, there was something like $10,000,000, or thereabouts, in a floating debt, which was afterwards converted into what was subsequently called the income bonds. I state these amounts entirely from recollection.

Q. I do not quite understand your previous answer, Mr. Mink, as to whether you mean to say that the $27,000,000 of the first mortgage bonds included, or were separate and distinct from the bonds issued by the Government to the road?

A. They were separate and distinct from the bonds issued by the United States.

Q. When you speak of the road being completed in 1869, you mean, do you not, that not only the line of road had been constructed, but it was also equipped and in operation?

A. I do. It was so far completed as to be accepted by the United States as completed within terms of the legislation under which the issue of subsidy bonds was made in its behalf.

Q. When you speak of the Land Grant Mortgage, or the $10,000,000 mortgage, that was a mortgage upon what property?

A. Upon the lands granted by the United States to aid in the construction of the road, that is the main line.

Q. That included what quantity of land?

A. My recollection is that the acreage was about 12,000,000 acres.

Q. Did that mortgage cover the line of road?

A. It did not.

Q. Can you state what sum of money had been realized by the company from these lands?

A. The Union Pacific Railway Company, and its pre-

decessor, the Union Pacific Railroad Company, have derived from the sale of 7,852,000 acres of land, granted to aid in the construction of the main line, the sum of $15,936,000, or had derived that sum at a very recent date. The precise date I am not able to give you now.

Q. That would be nearly fifteen thousand dollars per mile of the main line of road from the Missouri River to Ogden?

A. Not far from that; yes,sir.

Q. Have you any data by which you can state the number of acres of land yet undisposed of, and which were unsold at the date of the statement to which, I think, a reference was made by you?

A. 3,297,000 acres, and the estimated value was not far from $3,000,000.

Q. Then if there should be realized from the lands yet unsold about what you estimate, the result would be that the company would have received what is equivalent to about $18,000 per mile for the construction of the main line out of the land grant?

A. Yes, sir, it would; and all the money realized from sales thus far made have been applied to the bonded indebtedness of the company, and the money to be realized from the unsold lands is also applicable to the same purpose.

Q. By that you mean that it should be first applied to the reduction of the bonds secured by what is called the Land Grant Mortgage?

A. I mean that it was applied to the reduction of the

Land Grant Bonds, so long as they were outstanding, and that it is now applied to the reduction of the sinking fund bonds, that mortgage having taken the place of another issue of bonds, and having been made a mortgage on the lands.

Q. Are you familiar with the cost of railroad building in Nebraska from 1866 to 1869?

A. Well, no, sir; I was not, nor am I to-day, except as I have seen the reports bearing on that matter.

Q. And you have no personal knowledge of what it cost to construct that portion of the Union Pacific Railroad lying within the limits of the State of Nebraska?

A. I have not.

Q. Can you state the number of miles of that road lying within the limits of the State of Nebraska, by which I mean of the main line?

A. It is about 463 53-100 miles.

Q. You have no way of determining then at this time what it actually cost to construct the number of miles mentioned in your last above answer within the limits of the State of Nebraska?

A. You mean by that the cost to the contractor who built it, or to the corporation who bought it?

Q. I am speaking of the actual cost of construction.

A. The cost to the contractor I am not able to give you.

By Judge Woolworth:

Q. Can you give the cost to the company?

A. . Not for those specific miles.

Q. Is it not true that the company in contracting for the building of the road contracted for the entire line through from Omaha to Ogden?

A. My recollection is that the company made three contracts for the construction of the road—possibly four; the first one extending over about two hundred and fifty miles, the next one, as I remember, extending over about 667 miles, and the third one extending over the balance of the road, that is, to a point some forty or fifty miles west of Ogden, that part of the line commencing at a point five miles west of Ogden, and so on to the west boundary, was afterwards sold to the Central Pacific Company.

Q. With whom was the contract made for the first contract division extending from Omaha westward?

A. H. M. Hoxie.

Q. Have you any way of knowing what was the contract price between the company and Mr. Hoxie for the construction of that part of the road mentioned in the last above answer?

A. Only by referring to the contract, and I have no copy of it here.

Q. With whom was the contract made for the next westward division?

A. Oakes Ames.

Q. Are you able now to state the contract price between the company and Oakes Ames for that portion of the road included in his contract?

A. Not from memory and I have no copy of the contract at hand.

Q. Are you able to state the manner in which these contractors were paid for the portions of the road constructed by them respectively, by them I mean Mr. Hoxie and Mr. Ames?

A. They or their successors or assigns, under the contract, were paid, as I remember—it is a great many years since I have seen the accounts—in cash. All the transactions were made a matter of record, as though they were cash transactions.

Q. Your knowledge of that, then, depends upon the observations you have made from time to time of the books and records of the company?

A. Entirely so.

Q. You are not now experienced in the cost of railroad construction are you?

A. No, sir, I make no pretensions to be familiar with that phase of railroading.

Q. You know the fact, do you not, that the line of road extending westward from Omaha is built over a comparatively level country through almost the entire length of the state?

A. I do.

Q. You further know the fact, do you not, that on that line of road there was not, and is not now any bridging, with the exception of one or two instances, and a very few if any, cuts of any extent?

A. I know generally, with reference to the bridging, but I am not so familiar with reference to the cuts, but my recollection agrees entirely with the proposition involved in your question.

Q. Were you familiar with the cost of such material as would necessarily be purchased in the market for railroad construction between the years 1866 and 1869?

A. Not personally. My familiarity with that matter is derived entirely from the statements I have seen in print or heard made from time to time since then.

Q. Are you familiar with the price of railroad iron for iron rails or steel rails at this time?

A. I am generally familiar with the price of steel rails at the present time.

Q. Do you know whether or not steel rails were in use between 1866 and 1869?

A. I think steel rails were being brought in here about 1869 or 1870, being used on some of the great trunk lines running out of New York City.

Q. To get at what I want, in short, do you not know that the price of rails has greatly diminished between 1869 and the present time?

A. I do. Enormously. I should say the shrinkage in the price of rails at Omaha would be sixty-six per cent.

Q. And is that not true likewise of railroad ties?

A. I am not so familiar with that matter, but I should think it might be very largely true of ties.

Q. Now, in addition to railroad iron and railroad ties,

have there not been other inventions which have greatly reduced the expense of constructing the road-bed, such as steam shovels, wheeled scrapers and so on?

A. I believe so.

Q. Can you state to about what percentage these improvements have reduced the cost of railway construction?

A. No sir, I have not the slightest idea.

Q. Now, as to equipment, is it not true that railroad locomotives cost more from 1866 to 1869, than they do at the present time?

A. I presume an individual locomotive and an individual car cost more, but not more, I should say, relatively. I think the size of the locomotive has been so tremendously increased that there is not so much difference between the cost of equipment as one would suppose. I am not able to give you the price of equipment in comparison between 1869 and the present time, but I know that the price of equipment relatively has not decreased as much as the materials for railroad construction.

Q. I am speaking of this increased capacity arising from improvements in locomotives and in cars; is it not true that it requires a less number of locomotives and a less number of cars to haul the same quantity of freight than it formerly did?

A. Undoubtedly.

Q. It is then true, is it not, that the necessary equipment to carry a definite amount of freight at the present

time can be procured for a great deal less money than it could have been in 1869?

A. I should say it was.

Q. Do you know, or have you any means of knowing, the amount of money which was necessarily expended for equipment of this road in 1869, I should say up to 1869, to cover the years from 1866 to 1869?

A. I have no definite recollection concerning it, but my belief is based in part on recollection that the contracts under which the Union Pacific Railroad was constructed called for about $7,500.00 a mile in equipment. I presume that amount of equipment was placed on the road.

Q. $7,500.00?

A. Yes.

Q. What do you estimate the value of the equipment to be per mile at the present time. You perhaps may have stated it heretofore, but I don't remember the amount?

A. $7,304.00. In other words, our estimate is that it would cost $7,304.00 a mile to replace the equipment that is now on the lines of the Union Pacific Railroad Company.

Q. Your answer just made is given from the accounts as they appear upon the books of the company, is it not?

A. My answer is based on an examination that was made for the purpose of determining this very fact, without reference to the present inquiry, and for a wholly different purpose.

Q. But still that inquiry is derived from what the books of the Company show as to the amount of money so invested?

A. It is derived from the books and records of the company in so far as the locomotives and cars are concerned, but the amount is determined only by making a computation. We had at the date of which I speak, no book account representing any such amount of equipment, in fact I may say that that calculation was made for the express purpose of opening such an account and therefore without reference to this litigation.

Q. Yes, I understand that, but this result was arrived at by ascertaining what had been paid out for the purchase of equipment, or the amount of money which had been expended for equipment, and from that making your computation?

A. It was derived by making an inventory of the rolling stock, that is to say, so many locomotives, so many cars of this type, so many cars of that type, and making an estimate of the amount that it would cost to replace them in case they were destroyed or broken up. In other words, it represented as near as may be the value of our equipment on the day the inventory was taken.

Q. Who took that inventory?

A. Those inventories are taken regularly every month. The work is done under the direction of our master mechanic, our superintendent of machinery.

Q. At Omaha?

A. At Omaha.

Q. The inventory is not made, perhaps, as a merchant would inventory the goods on his shelves, but from such

data and reports as the officers of the company may have at hand.

Q. Then you do not understand that when this inventory was made the locomotives and cars were appraised at their then present value?

A. I do not, but I believe them to be worth that valuation because the condition of our equipment has been wonderfully improved during the last few years, a number of new locomotives and a number of new freight and a number of new passenger cars having gone into the service, so that I do not think the statement is out of the way as representing the value of the equipment, or to put it the other way, the probable cost of renewing it, if you look at it from that point of view.

Q. If you speak of it from the point of renewal, you mean that sum represents what it would cost to purchase new locomotives and new cars of the number and size of those now on the road?

A. Of the number; I would not limit it to the size. We should probably never think of duplicating certain of our types of locomotives or cars, because we would attempt to keep pace with the march of invention and replace those cars with cars of a more recent standing.

Q. When you were speaking of this equipment, with reference to what equipment, belonging to what line of road, were you speaking?

A. The parent company.

Q. The Union Pacific Railway Company?

A. The Union Pacific Railway Company.

Q. That includes the Kansas Division and the line from Denver to Cheyenne, as well as the main line of the Union Pacific?

A. It does.

Q. Have you any way of knowing what part of that equipment properly belongs to the main line of The Union Pacific Company?

A. We have not.

Q. Isn't it true that on that part of the line extending through Wyoming, or say from the western line of Nebraska to Ogden, is a line that requires the use of larger locomotives for hauling the same amount of traffic than is required over the Nebraska Division?

A. Undoubtedly.

Q. Then doesn't it follow that, particularly in the line of locomotives, that it would not require so much to be expended for equipment in locomotives for that portion of the line lying within the limits of the State of Nebraska as would be expended for that portion extending over the mountain regions of Wyoming?

A. Not to move the same body of traffic.

Q. Does it not likewise require a larger number of employees on the Wyoming Division than for the Nebraska Division, such as a larger number of engineers, firemen and brakemen?

A. In performing the same train service I should say yes.

Q. Then, in short, Mr. Mink, for the same amount of traffic the road can be operated, and is operated, for that part within the State of Nebraska for a much less sum of money than that part lying within Wyoming?

A. I answer that question by saying that a given quantity of traffic could undoubtedly be moved over that part of the line within the State of Nebraska for less money than that part lying and situated in Wyoming.

Q. Is it not also true that on that part of the line situated within Nebraska that the same motive power and the same number of train men can haul and take care of much heavier trains, and a greater number of cars, and haul therefore a greater amount of freight than in Wyoming?

A. Yes, because of the fact stated in my preceding answer.

Q. So if freight should be hauled according to the actual cost of transportation it could be carried cheaper in Nebraska than in Wyoming?

A. It can undoubtedly.

Q. Yet, on the theory that the company should earn enough money to pay its operating expenses and interest on its debt, and something of a dividend to its stockholders, treating this company as an entirety, there should be no such discrimination in freight charges upon any of the different divisions of the lines of road belonging to this company, to wit: Nebraska, Wyoming, Kansas or Colorado?

By Mr. Woolworth:

I object to that as not proper cross-examination. It

does not appear that the witness is competent to speak on that matter. There are a great many things to consider in answering that question, and not simply matters therein referred to.

A. My answers to the last two questions have been based entirely upon the cost of service and not on the rates charged. I am not familiar with the rates charged in Wyoming as compared to those charged in Nebraska.

Q. You were connected with the Union Pacific Railway Company at the time that the line of the Omaha & Republican Valley was constructed from Valley to Lincoln, were you not?

A. I was.

Q. Have you any way of stating what was the actual cost of the construction of that road?

A. Not here. I doubt very much if I could state the actual cost of construction even at Boston, where the accounts of the company are in part kept; my recollection is that line was built by a contractor for a specified amount of bonds per mile and a specified amount of stock per mile.

Q. It was not then paid for in cash, and perhaps the contract was not based on the cash value.

A. I am not able to answer that question. My recollection is that so many bonds and so much stock for each mile constructed was paid over for the line.

Q. Do you know who was the contractor?

A. I believe Chester W. Collins was the contractor for that line.

Q. Where does he live?

A. I think he lives at Beatrice, Nebraska.

Q. In your testimony in chief when speaking of the stock and bonds of the Omaha & Republican Valley Railway Company, you included the bonds and stocks of the entire line of road included under that corporate name?

A. I did.

Q. They cover then, some five hundred miles of road, four hundred and eighty, I believe it was?

A. It did 482 05-100.

Q. Can you speedily state the total amount of mortgage bonds upon that entire line?

A. On the 31st day of December last, there were $1,559,000 7 per cent. bonds; $3,136,000 5 per cent. consolidated mortgage bonds and $1,246,000 so-called 5 per cent. extension bonds. At the same date the Omaha & Republican Valley Company was owing a floating debt of $3,192,000, almost the entire amount of which was due to the Union Pacific Company either on open or book accounts, or for unpaid coupons owned by that company.

Q. That would be about how much per mile on the road?

A. About nineteen thousand dollars a mile.

Q. Well those bonds and this floating debt, if you please, paid not only for the construction of the road but for its equipment also, did it not?

A. I think not, I think the bonds were, together with the stock, used to pay for the construction of the road.

The floating indebtedness represented practically all the accumulated deficits arising from the operation of that line.

Q. Then it is not true, Mr. Mink, to say that the stock of that company, together with its mortgage bonds, paid for the cost of the construction and equipment of the road?

A. I believe that to be true.

Q. So that the cost of the equipment and construction, including the stock at par, would make the entire cost of construction and equipment but a little over eight millions of dollars?

A. The book account cost of the road and its equipment was $8,666,002.69.

Q. That would be still less than $19,000 a mile, would it not?

A. It is about $18,000 a mile. The $18,000 represents the book account cost of the road.

Q. And yet, as I understand you, that the road was built and equipped by the use of these bonds; in other words, the stock and bonds were turned over to the contractor instead of cash for this work and to supply the material?

A. My recollection is that the greater part of the road was built under contract and the bonds and stock were used in paying for the construction.

Q. You understand, do you not, Mr. Mink, and have you any doubt, that a road can be constructed, or a contract can be made for less money, if it is paid for in cash, than in

a case where it is to be paid for in the stocks and bonds of the company?

A. I have been told so.

Q. So that if this road was constructed and equipped for a little over eighteen thousand dollars per mile in the stocks and bonds of the company, as you understand, it could have been equipped for less money if the cost of construction and equipment was to have been paid for in cash in lieu of the bonds and stocks?

A. I understand, on the theory of some people, it might have been constructed and equipped for less money if paid for in cash; but, in any event, the venture would have been a most disastrous one, as the accounts of the company for a series of years show.

Q. You are speaking of the operation of the road after you had control of it; after it was constructed and equipped?

A. I am, comparatively; I am speaking not only from the standpoint of an investor in the securities of that company, but also looking at it merely in so far as its earnings and its operating expenses are concerned.

Q. You don't mean by that that the contractor did not receive enough money to pay him for the construction of the road?

A. I presume the contractor was satisfied with the terms of his contract.

Q. And for all you know he may have made money out of his contract?

A. He may have done so; I do not pretent to know.

Q. It is true, is it not, that all large railway companies, like the Union Pacific, encourage the building of branch lines, even through a territory which may not be remunerative for a period of years, for the purpose of drawing business from those companies and making them tributary to their lines?

A. I think they do.

Q. And wasn't that the policy which controlled The Union Pacific Railway Company in getting control of many of the branch lines?

A. It was, and with that policy in view the Union Pacific aided in the construction of a great many lines in the western country but very few have been so disastrous in their results, looking at them as investments only, as the Omaha & Republican Valley.

Q. Yet in computing the profits or losses of the Omaha & Republican Valley, you take into account simply the profits or losses properly belonging to the mileage of that road alone, without taking into account any profits which might have been realized by the Union Pacific Company in hauling its freight, that is derived from this branch line, over any part of the main line of the road?

A. I do.

Q. So that while the Omaha & Republican Valley as a branch may have been unprofitable, did it not add to the profits of the main line of the Union Pacific road?

A. Undoubtedly. If it was not for that consideration we should have been obliged to abandon the property.

Q. And isn't that true as a general proposition on the other lines tributary to the Union Pacific?

A. As a general proposition that is true.

Q. In your statements of the indebtedness of the Union Pacific Railway Company, you at all times have taken into account the obligations which it has assumed with reference to these branch roads, and the obligations which it has been under, in discharging the liabilities of these branch lines?

A. I have not. The obligations of the Union Pacific Company which I have referred to in my examination in chief, were all direct obligations of either that company of its constituent companies and in no way represented the obligation of the Omaha & Republican Valley, or any other company of the system. In my answer to the direct interrogatory, I enumerated only the funded debts in respect to which either the Union Pacific or some one of its constituent companies was the obligor.

Q. The miles of road belonging to the Omaha & Republican Valley System, to wit, about 481 miles of road, were constructed over a territory quite similar to that over which the main line of the Union Pacific was constructed across the State of Nebraska, was it not?

A. I believe so.

Q. And so far as you know, the main line of the Union Pacific, across the State of Nebraska, could be constructed to-day, or duplicated, or replaced for a sum of money no greater than that which would be necessary for the construction of the Omaha & Republican Valley?

A. No, I cannot agree to that at all. The conditions are in no degree the same. The Union Pacific is a trunk line equipped for an enormous traffic, well appointed, well supplied with rolling stock, shops and all that goes to aid in the economical operation of a railway; whereas, on the other hand, The Omaha & Republican Valley is a very different piece of property; it is what we generally call a branch or feeding line. It has no credit, it is not able to borrow any money. It could not go into the market here and borrow a dollar under the conditions which now prevail. The condition of the two companies can in no sense be compared. The value of the equipment alone on the Union Pacific line, per mile, as I have already pointed out, amounts to nearly half the cost of The Omaha & Republican Valley road, including its equipment per mile.

Q. In speaking of the equipment of the Union Pacific road, is it not true that a large number of cars and large number of locomotives used by that company are not owned by that company?

A. The equipment to which I have referred in my previous answer, is the equipment owned by The Union Pacific Railway Company. I have not included equipment owned by any of the other lines, nor systems, such as The Omaha & Republican Valley or any other branch or feeding line. Nor have I, of course, included the equipment which is constantly in use on our line and which belongs to other lines, such as The Chicago, Burlington & Quincy, or The Chicago, Rock Island & Pacific. My answer with reference

to the equipment referred only to the equipment owned by The Union Pacific Company, the title to which was in that company or in trustees under its equipment trust indenture.

Q. Well, perhaps I am wrong, but I will ask another question for information. Is it not true that a large number of the locomotives which are used by The Union Pacific Company on its line of road, are not owned by that Company, but are used by it under a lease from the original owners?

A. All the equipment which I have referred to, as from time to time belonging to The Union Pacific Company, belongs in fact to that company. It is true that for purposes of economical operation, the rolling stock, locomotives in particular, of branch lines are occasionally transferred to and used on the line of the parent company; but in all such cases the branch lines are allowed rental just as when it uses the power from the main line, it concedes or accords rental to the main line, whatever the rate may be. The Union Pacific owns 534 locomotives, some of which are covered by equipment trust agreements; that is to say, the title to such locomotives is in a trustee under the equipment trust indenture. The other lines of the system, such as The Omaha & Republican Valley, The Oregon Railway & Navigation Company, and so on, own 496 locomotives, the title to which, except in a few special equipment trust cases, is in the various companies. Whenever any of these locomotives are used on any line of the system to which they do not belong, a charge based on what the service is

worth is made against the line so using them, and in favor of a line to which the locomotive belongs. This is a general practice, accepted without reference to where the locomotive may be used. So far as the compensation for the use of cars is concerned, that is settled by conceding the ordinary mileage allowance.

Q. This matter of equipment, to wit, motive power and cars, is a matter particularly under the supervision of the master mechanic at Omaha?

A. It is.

Q. And he would be fully advised as to the condition of your equipment and the amount and extent thereof?

A. Yes, sir.

Q. And he would likewise be familiar with not only the cost, but with the present value of such property?

A. He would.

Q. In short now, Mr. Mink, what do you state the sum total of the mortgage indebtedness of The Union Pacific Railway Company to be?

A. On the 31st of December, 1892, the indebtedness of The Union Pacific Company, including its debts to the United States, was $134,598,461.48.

Q. Were all those obligations liens upon the main line of The Union Pacific from Omaha to Ogden?

A. No, sir, they were not.

Q. Well, then, can you state the amount of the indebtedness which would rest upon the main line of The Union Pacific from Omaha to Ogden. I don't mean rest

there exclusively, but which is a lien upon that part of the road?

A. The mortgage indebtedness, excluding that to the United States, amounts to $32,405,000. This includes the first mortgage bonds, and the sinking fund mortgage bonds. It does not include the Omaha bridge liability, nor the proportion of any collateral trust issues which might, under certain circumstances, be laid on the main line. The amount of indebtedness to the United States for principal is $27,236,512. The balance of the interest pertaining to that particular indebtedness I am not able to give you. It is perhaps about $14,000,000. The amount of the Sinking Fund is first deducted, that is the net amount of interest, the Sinking Fund under the Thurman Act being first deducted.

Q. Your estimate of the total liabilities of The Union Pacific Railway Company is how much?

A. On the 31st of December last it was $134,598,461.48.

Q. Well, that is the mortgage liability, is it not?

A. Excuse me, that is the total funded liability. The total funded and unfunded liability was $145,236,606.73.

Q. Does that include the stock of the company?

A. No, sir; it does not?

Q. That is sixty million more?

A. $60,868,500.00.

Q. Making a sum total of a little over $200,000,000?

A. Yes.

Q. That represents about how much per mile?

A. About $109,000 per mile.

RE-DIRECT EXAMINATION BY MR. WOOLWORTH.

Q. Can you give us the figures of the cost to the company of the road at the time of its completion or acceptance by the Government; not here, but hereafter?

A. Yes, sir, I can.

Q. Well, you may state what the cost to the company of the property was at the time of the consolidation in 1880.

A. My recollection is, that the construction account of The Union Pacific Railway Company, which would include the cost of the bridge, and the improvements made by the company up to that time on the Council Bluffs and Ogden lines, was about $90,000,000.00.

Q. Mr. Mink, did you ever have any conversation with any of these plaintiffs about the bringing of this suit before it was brought?

A. No, sir, I did not.

Q. Did you ever have any communication with them directly or indirectly about it?

A. No, sir, never.

Q. When you speak of the greater expense of operating the lines in Wyoming over operating the lines in Nebraska, do you take into account the differences in the cost of local and through business?

A. I did not take into consideration the revenue side of the proposition at all. I took into consideration merely the character of the country, the difference in the price of labor, and all that, as appertaining to Wyoming and the

country west of there, in comparison to the country east of Cheyenne and along through the Platte Valley. Of course, I understand the rates in that country are based upon those very conditions, and that the rates in Wyoming are relatively higher than they are in Nebraska.

RE-CROSS-EXAMINATION BY MR. WEBSTER.

Q. In your statement to the effect that the cost to the company in 1880 was about $90,000,000, you included what mileage in that statement?

A. The mileage from Council Bluffs to a point about five miles west of Ogden, 1,034 miles.

Q. That included what class or line of expenditures upon that road since its construction in 1869?

A. That included the amounts paid by the company to the contractors who built the road from Omaha west, the cost of the bridge across the Missouri River between Omaha and Council Bluffs, and the improvements made on the line generally after the line was turned over by the contractors, and up to the date of which I am speaking, 1880, together with the outlays made for additional rolling stock during that intervening period.

Q. Well, then, that practically included in a measure the cost of maintenance, did it not?

A. It did not; no, sir. When I speak of additional rolling stock, I do not mean rolling stock to replace that which had been worn out by use, since outlays of that character should only be charged to the maintenance or renewal account.

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Q. Did that include the stock which had been issued by the company?

A. Not as a specific item. The entire issue of stock of the Union Pacific Railroad Company appears to have been paid for in cash at par.

Q. You have no personal knowledge of the fact?

A. I speak only from the book account entitled "Capital Stock" on the books of that corporation.

Q. Well, your whole knowledge of the matter must be based simply upon the entries as they appear in the book?

A. It is, entirely.

Q. And have you any printed form anywhere, a statement of that account, which might be attached to your deposition, upon which you have based these answers?

A. I have none; but I don't think it would be a very serious matter to prepare a transcript of the account. I will do so with pleasure, if you would like to have it attached.

Q. Can you furnish a statement from the books of the company, showing the apparent cost to the company of the construction of the main line from Omaha to Ogden?

A. I can state the cost of the line from Omaha to Ogden as the same appears in the accounts of the company at the close of 1869, and will do so.

Q. If you can, will you state, after you have had time to examine the records, what was the contract price for construction under the first division west of Omaha, on the contract with Mr. Hoxie, and likewise the contract price for the next sub-division, under the contract with Mr. Ames?

A. I will.

Q. You may also state, Mr. Mink, when you have examined the records and papers and documents, whether or no these contracts were paid in cash, or whether or no they were paid in bonds, or bonds and stocks of the company?

A. All right.

Q. If you find from such examination that they were apparently paid in cash, you may also state whether it does not appear by the books of the company that these contractors were the subscribers for the bonds and stocks, one or both; and that the bonds and stocks in whole or in part may have been sold to them as purchasers?

A. I will make an examination and state the results of my investigation. My recollection is that under the Hoxie contract the transactions were mainly in the nature of cash. Under the Ames contract, my recollection is that certain specified amounts of stock were to be subscribed for, and that they were subscribed for, and that certain amounts in money were to be paid, as the contract price for building the various sections of the road, as specified in that contract. The price varying for different parts of the line.

(Signed) OLIVER W. MINK.

Subsequently, Mr. Mink, in further answer to the question on page 61, presented and annexed to his deposition a detailed statement of the date of original issues of stock by The Union Pacific Railroad Company, the amount of each issue, and to whom the stock was issued, prepared from the books of the company. (See Exhibit "A.")

Mr. Mink also stated in further answer to the second question appearing on page 61, to wit: The question calling for a statement from the books of the company showing the apparent cost to the company of the construction of the main line from Omaha to Ogden; that the books of The Union Pacific Railway Company indicated that on December 31st, 1869, the construction and equipment of the road, including the Omaha bridge, cost the company to that date, $93,457,498.57.

Mr. Mink, also, on examination, found it necessary to modify this statement based on recollection, that the construction account of The Union Pacific Railroad Company, in 1880, including the cost of the bridge, the improvement made subsequent to 1869, and the outlay for additional equipment in the interval, amounting, as he then recollected, to $90,000,000, all as outlayed on page 58 *et seq.* so that the statement would stand as follows:

Just prior to the consolidation in 1880 the construction accounts of The Union Pacific Railroad Company show outlays aggregating $118,753,718.02.

Mr. Mink also stated that on investigation he found that the contract price, under the contract with H. M. Hoxie, of September, 1864, was $50,000, for each and every mile of completed road, the contractor not to be required to expend for the erection of station buildings, machinery, machine shops, tanks, equipments, etc., more than $5,000 per mile, and that any excess in the cost of iron above $130 per ton at Omaha, was to be allowed by the company. The

contract appears to be a cash contract. It contains the following provisions:

The contractor to furnish money upon the securities of the Company, as hereinafter provided, for the construction of each section of the length required by the Acts of Congress hereinbefore referred to, viz.:

"The company shall proceed to mortgage the land acquired from the Government at not more than sixteen thousand dollars per mile, bearing seven per cent. interest, payable semi-annually in the city of New York, which bonds shall be receivable for the lands of the company at such prices as may be fixed upon from time to time as the cash price of the lands. The company, to proceed to the preparing of the first mortgage bonds, as provided for under the act made and put on record the mortgage securing the same, so that the bonds may be ready for issue as soon as the provisions of the law are complied with, and shall do everything necessary and requisite to obtain the Government bonds at an early day. In the mean time, if required, the company to execute certificates of an amount to correspond to the first mortgage and government bonds, exchangeable for the same, upon the company's obtaining the United States bonds; said certificates to bear interest payable semi-annually at the rate of six per cent. On these certificates I will advance, or procure to be advanced, the necessary funds to the company at the rate of eighty per cent. of their par value, and on the Land Grant Bonds seventy per cent., reserving the right to dispose of them when-

ever the amount so advanced, including what may be due on construction, shall exceed five hundred thousand dollars, or whenever said advance shall have been made over four months, but not to do so for less than the prices above named. The company, in their option, to decide whether I take the bonds, or any portion of them, at the prices above named in payment for advances and interest, if called upon to do so within thirty days thereafter. I will also subscribe, or cause to be subscribed, to the capital stock of your company five hundred thousand dollars."

Mr. Mink further stated that the contract prices under the contract with Oaks Ames, who was the contractor for building the next sub-division, commencing at the one hundredth meridian, were as follows:

1st	100	miles.....	$42,000 per mile.
2nd	167	"	45,000 " "
3rd	100	"	96,000 " "
4th	100	"	80,000 " "
5th	100	"	90,000 " "
6th	100	"	96,000 " "

Under the contract, Mr. Ames was to erect all necessary depots, machine shops, machinery, tanks, and turn-tables, and provide all necessary machinery and rolling stock at a cost of not less than $7,500 per mile, in cash, and to construct such necessary side tracks, not exceeding six per cent. of the length of the road constructed under the contract, as might be required by the railway company.

The Ames contract provides that payments thereon should be made in cash. It contains the following provisions:

"11th. Payments hereon shall be made to the party of the second part, his heirs, executors, administrators or assigns in cash, but if the government bonds received by the company cannot be converted into money at their par value net, and the first mortgage bonds of the company at 90 cents on the dollar net, then the said party of the second part, his heirs, executors, administrators and assigns shall be charged hereon the difference between the amount realized and the above named rates, provided the first mortgage bonds are not sold below 80 cents on the dollar, and if there shall not be realized from the sale of such bonds an amount sufficient to pay the party of the second part, his heirs, executors, administrators or assigns for work as stipulated in this contract and according to the terms thereof, then such deficiency, shall from time to time be subscribed by said party of the second part, his heirs, executors, administrators or assigns, to the capital stock of said company, and the proceeds of such subscription shall be paid to said party of the second part, his heirs, executors. administrators or assigns on this contract.

"12th. On the first 100 miles of this contract shall be added to the equipment not provided for and intended to apply on this section as follows, viz:

Six locomotives.
Fifty box cars.
Four passenger cars.
Two baggage cars.

And a proportionate amount of equipment of like character be supplied on the second section of 100 miles after the same is completed."

The preceding extracts from the Hoxie and Ames contracts which show the amounts provided to be expended for machinery, shops and equipment, modify the answer on the 42d page by which Mr. Mink was made to say that his recollection was that the outlays for equipment, provided to be made under the original contracts was about $7,500 a mile. The contracts themselves show that under the Hoxie contract, the outlays for station buildings, shops, equipment, etc., were not to exceed $5,000 a mile, and under the Ames contract the expenditure for such purpose was not to exceed $7,500 a mile. Mr. Mink believes that the outlays for equipment represent the greatest part of this expenditure.

Mr. Mink desires to amplify the answer contained on the 52nd page, with reference to the unprofitable character of various tributary lines within the system. It is not true, as a general proposition, that the cost of operation of many of the lines in the Union Pacific System exceeds the revenue derived by those lines. It is true in a few instances only. For the year ending September 30th, 1893, the following lines in the Union Pacific System, aside from the Omaha & Republican Valley lines, failed to earn their operating expenses:

Carbon Cuff Off,
Brighton & Boulder Branch,
Denver, Leadville & Gunnison,
Junction City & Fort Kearney,
Kansas Central, and
Salina & Southwestern Railways.

O. W. MINK.

Exhibit "A."

Detailed Statement of the date of Original Issues of Stock by the Union Pacific Railroad Company, amount of each issue, and to whom issued.

December 22, 1863. For first installment of ten per cent on the entire subscription of the company to this date, as per following list:

	SHARES	AM'T PAID INTO TREAS. OF CO.
Andrews, S	20	$2,000
Ahern, S J	20	2,000
Ashley, O. D	20	2,000
Blood, H	20	2,000
Basford, H. W	20	2,000
Belmont, Aug	10	1,000
Bushnell, C. S	50	5,000
Brodhead, E. C	20	2,000
Bonner, G. T. & Co	20	2,000
Butler, E	10	1,000
Bartholomew, Geo. M	10	1,000
Boody, H. H	20	2,000
Barney, D. N	20	2,000
Blatchford, R. M	20	2,000
Butterfield, John	10	1,000
Blair, John I	20	2,000
Cass, G. W	20	2,000
Clark, Edward	20	2,000
Clark, Dodge & Co	20	2,000
Cook, E	50	5,000
Curtis, N. B	20	2,000
Cisco, John J	20	2,000
Cheny, A. N	20	2,000
Crane, J. S	5	500
Crane, H. C	50	5,000
Cooper & Hewett	20	2,000
Chitten, S. B.	10	1,000
Corning, Erastus	20	2,000
Campbell, Allen	5	500
Carver, B. F.	10	1,000

	SHARES	AM'T PAID INTO TREAS. OF CO.
Dix, John A.	20	$2,000
Duncan, Sherman & Co.	20	2,000
Dehon, Clark & Bridges	20	2,000
Dunham, E. W.	20	2,000
Davis, G. T. M.	50	5,000
Dunham, James L.	20	2,000
Durant, W. F.	20	2,000
Durant, Thomas C.	50	5,000
Dows, D.	10	1,000
Durant, W. W.	20	2,000
Dodge, Wm. E.	20	2,000
DeRonge & Dyett	20	2,000
Gibson, E. T. H.	50	5,000
Grinnell, M. H.	10	1,000
Gibson, C. D.	10	1,000
Gray, S. M.	10	1,000
Greswold, Geo.	20	2,000
Gould, Charles	20	2,000
Gardner, Ransom	5	500
Hartson, G. B.	20	2,000
Harriman & Jerome	20	2,000
Hodges, G. W.	20	2,000
Henry, J. E.	50	5,000
Husford, O. P.	1	100
Haven, F.	10	1,000
Holliday, Benj.	20	2,000
Jerome, A. G.	20	2,000
Jerome, L. W.	20	2,000
Jones, David	20	2,000
Kowalski, C.	20	2,000
Ketchum, Morris	20	2,000
Kountze, Augustus	5	500
Lambard, H. J.	20	2,000
Low, A. A.	20	2,000
Lambard, Chas. A.	20	2,000
McComb, H. S.	10	1,000
Merriam & Bell	20	2,000
McAndrews & Wann	20	2,000
Maxwell, John D.	10	1,000
McPherson, Wm. M.	5	500
McCormick, John	1	100
Megrath, James G.	1	100

	SHARES	AM'T PAID INTO TREAS. OF CO.
Nye, E.	10	1,000
Ogden, Wm. B	20	2,000
Opdyke, George	20	2,000
Pratt, G. W	20	2,000
Price, J. M	20	2,000
Pruyne, J. V. L	20	2,000
Poor, Henry V	10	1,000
Pomeroy, S. C	5	500
Quintard, G. M	20	2,000
Rosekrans, E. H	20	2,000
Ramsford, G. S	10	1,000
Richards, L. S	20	2,000
Richards, T. P	20	2,000
Richmond, Dean	20	2,000
Russell, C. H	20	2,000
Rickley, John	1	100
Roberts, M. O	20	2,000
Scott, Thomas A	20	2,000
Scranton, J. H	50	5,000
Stebbins, H. J. & Sons	20	2,000
Smith, Samuel B	20	2,000
Smith, Platt	5	500
Sloan, Samuel	5	500
Smith, Francis	1	100
Smith, George R	1	100
Sweesy, William J	1	100
Tuttle, Charles	20	2,000
Thomas, J. E	30	3,000
Tuttle, J. T	20	2,000
Train, George F	20	2,000
Tracy, J. T	20	2,000
Truis, W. R	20	2,000
Train, Willie D	20	2,000
Tilden, William	10	1,000
Thayer, Nathaniel	20	2,000
Tiffany & Co	10	1,000
Tilden, S. J	20	2,000
Taylor, Moses	20	2,000
Thompson, G. A	5	500
Van Schaick & Massett	20	2,000
Winslow, Lanier & Co	20	2,000
Wright, J. B	20	2,000

	SHARES	AM'T PAID INTO TREAS. OF CO.
Williams & Guion	5	$500
Watkinson, Robert	10	1,000
Williams, John M. S	20	2,000
Weed, Thurlow	10	1,000
Williams, N. S	20	2,000
Winston, F. S	5	500
Young, Brigham	5	500
McCready, F. H	20	2,000
	2,177	$217,700

1864.

Sept. 26. By cash. Second installment on following subscription:

Wm. B. Ogden	$ 500	
R. Watkinson	1,000	
Williams & Guion	500	
Aug. Belmont	1,000	
J. Butterfield	1,000	
E. H. Rosecrans	2,000	
E. Cook	2,000	
		$8,000

Sept. 26. By cash. First installment 10 per cent.:

S. Seymour	3,000	
Clark Bell	3,000	
		6,000

Sept. 27. By cash. Second installment 10 per cent.:

G. F. M. Davis	3,000	
		3,000

Oct. 1. By cash. 10 per cent. on following new subscriptions:

C. S. Bushnell	10,000	
J. C. Kennedy	1,000	
Alex. Hayes	2,000	
		13,000

Oct. 1. By cash. Second installment of 10 per cent.:

J. F. Tracy	1,000	
J. C. Kennedy	1,000	
C. S. Bushnell	5,000	
Alex. Hayes	2,000	
		9,000

Oct. 3. By cash. Second installment 10 per cent.:

T. C. Durant	$5,000	
W. W. Durant	2,000	
A. Kountze	500	
T. G. Megrath	100	
W. J. Swasey	100	
J. Rickley	100	
O. P. Hasford	100	
J. McCormick	100	
J. E. Henry	2,000	
		$10,000

Oct. 28. By cash. First installment 10 per cent.:

H. C. Crane, agent	25,000	
H. M. Hoxie	25,000	
		50,000

Made in accordance with provisions in Hoxie contract.

Nov. 15. By cash. Second installment 5 per cent.:

Robert Watkinson	500	
		500

Nov. 15. By cash. Second installment 5 per cent. paid on the following subscriptions:

	SHARES
E. C. Broadhead	20
H. W. Bashford	20
D. Dows	10
N. B. Curtis	20
H. Blood	15
M. H. Grinnell	10
T. Haven	10
Thurlow Weed	10
Ransom Gardner	5
Clark Bell	30
J. M. Price	20
G. M. Quintard	20
J. T. Tuttle	20
M. Schauch	20
Merriam & Bell	20
G. M. Gray	20

	SHARES
H. C. Crane	40
A. N. Cheeny	20
G. W. Pratt	20
W. W. Durant	20
H. C. Crane, agent	250
Pickering Clark	10
J. G. Butler, trustee	20
C. S. Bushnell	100
G. T. Bonner	20
J. E. Henry	10
E. Cook	10
McAndrews & Mann	20
S. J. Ahren	20
Ed Clark	20
E. Butler	20
B. F. Carra	10
T. H. McGready	20
W. F. Durant	20
S. Andrews	20
J. D. Maxwell	10
N. S. Williams	20
T. P. Richards	20
G. B. Hartson	20
DeShon, Clark & B.	10
Clark Dodge	10
Harriman & Jerome	20
Samuel B. Smith	20
E. H. Rosekrans	20
H. M. Hoxie	250
L. C. Clark	10
T. C. Durant	165
H. M. Hoxie	30
1864.	1,525 $76,250
Dec. 27. By cash. Being 95 per cent. balance due on subscription to capital stock of this company by Brigham Young, for five shares of $1,000 each, making it full paid stock	$4,500
1865.	
Jan. 20. By cash. E. Cook, 15 per cent	1,500
Jan. 20. By cash. R. Watkinson, 5 per cent on 10 shares	500

May 17. By cash. John E. Henry, 15 per cent..... $1,500

Nov. 8. By cash. R. Watkinson, 5 per cent. on 100 shares stock held by him..... 500

1866.

Feb. 17. By cash. O. P. Hinford, 5 per cent 50

March 8. By cash. Received from Credit Mobilier of America for account of installment on the following subscriptions to capital stock of this company, making the said stock 20 per cent. paid:

	SHARES	PER CENT.
T. C. Durant.....	20	10
T. C. Durant.....	20	10
T. C. Durant.....	10	10
W. D. Train.....	20	10
G. F. Train.....	20	10
John A Dix.....	20	10
Clark Bell.....	20	10
J. J. Cisco.....	20	10
J. F. Tracy.....	20	10
H. V. Poor.....	10	10
C. A. Lambard.....	5	10
Milo J. Burke.....	15	10
J. M. Williams.....	20	10
Charles Tuttle.....	20	10
J. H. Scranton.....	50	10
E. C. Broadhead.....	20	5
H. W. Bashford.....	20	5
H. Dows.....	10	5
N. B. Curtis.....	20	5
H. Blood.....	15	5
M. H. Grinnell.....	10	5
F. Haven.....	10	5
Thurlow Weed.....	10	5
Rawson Gardner.....	5	5
Clark Bell.....	30	5
G. T. Bonner & Co...	20	5
J. E. Henry.....	10	5
E. Cook.....	10	5
McAndrews & Wann..	20	5
S. J. Ahern.....	20	5
E. Clark.....	20	5

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	SHARES	PER CENT.	
E. Butler	10	5	
B. F. Carver	10	5	
F. H. McGready	20	5	
W. T. Durant	20	5	
J. M. Price	20	5	
S. Andrews	20	5	
G. M. Quintard	20	5	
J. D. Maxwell	10	5	
J. F. Tuttle	20	5	
N. S. Williams	20	5	
VanSchaich & Massett	20	5	
T. P. Richards	20	5	
Merriam & Bell	20	5	
G. T. Hartshorn	20	5	
G. M. Gray	10	5	
Debon, Clark & B.	10	5	
H. C. Crane	40	5	
Clark, Dodge & Co.	10	5	
A. W. Cheny	20	5	
J. Harriman	20	5	
G. W. Pratt	20	5	
Samuel B. Smith	20	5	
T. C. Durant	50	5	
L. C. Clark	10	5	
Pickering Clark	10	5	
T. C. Durant	115	5	
J. G. Butler, trustee	20	5	
H. M. Hoxie	30	5	
C. S. Bushnell	100	5	
O. S. Chapman	25	5	
Sidney Dillon	25	5	
W. T. Glidden	50	5	
John Duff	50	5	
Oliver Ames	50	5	
J. M. S. Williams	50	5	
Frederick Nickerson	25	5	
R. G. Hazard	25	5	
C. A. Lambard	50	5	
H. M. Hoxie	150	5	
	1,775		$102,250

1866.

March 24. By cash. Received from Credit Mobilier of America, for accounts of installments on the following subscription to capital stock of this company, making the same 30 per cent. paid:

	SHARES	PER CENT.
Sidney Dillon	25	10
O. S. Chapman	25	10
W. T. Glidden	50	10
John Duff	50	10
O. Ames	50	10
J. M. S. Williams	30	10
Frederick Nickerson	25	10
R. G. Hazard	25	10
C. A. Lambard	50	10
C. M. of A	875	10
H. W. Gray	5	20
Griswold	20	20

$127,500

June 22. By cash. H. C. Crane, assistant treasurer, being 30 per cent on new subscription for 5,000 shares of $100 each to capital stock of this company $150,000

July 1. By cash. For received from H. C. Crane, assistant treasurer, installments to capital stock as follows:

	SHARES	PER CENT.
N. B. Curtis	200	10
T. Weed	100	10
F. Haven	100	10
....Rosekrans	200	10
R. Gardner	50	10
W. H. Grinnell	100	10
P. Clark	100	10
G. T. M. Davis	100	10
C. A. Lambard	200	10
J. F. Tracy	200	10
J. J. Cisco	200	10
J. A. Dix	200	10
J. E. Henry	200	10
E. Cook	100	10

	SHARES	PER CENT.
C. Tuttle	200	10
T. C. Durant	100	10
C. M. A.	5,100	10
	7,450	

	SHARES	PER CENT.
Geo. Opdyke	200	20
H. S. McComb	200	20
C. H. McCormick	50	20
B. Holladay	200	20
	650	

650 shares at 20 per cent.; 7,450 shares at 10 per cent. $87,500

Aug. 18. By cash-scrip, account. For amount of scrip received from the following parties, in payment of 70 per cent. on number of shares standing in their names, same having been transferred to them by Credit Mobilier of America, being 30 per cent. stock, making their stock full paid:

	SHARES
Oliver Ames, March 29	1,563
Oakes Ames, March 29	449
James W. Grimes, March 29	125
Paul Pohl, Jr., April 4	3
J. M. S. Williams, April 4	313
W. T. Glidden, April 4	312
John Duff, April 4	625
Elisha Atkins, April 5	156
Wm. H. Macy, April 5	125
R. G. Hazard, April 6	500
I. P. Hazard, April 6	125
S. Hooper & Co., April 10	250
C. A. Lambard, April 6	625
S. Hooper & Co., April 10	250
F. Nickerson, April 10	125
G. G. Gray, April 11	633
Ezra H. Baker, April 12	156
Thomas Nickerson, April 12	50
E. Reed Meyer, April 12	10
J. B. Alley, April 13	250

	SHARES	
W. D. Forbes, April 13.....	50	
O. S. Chapman, April 13.....	156	
S. Dillon, April 13.....	313	
H. S. McComb, April 19.....	250	
George Opdyke, April 27.....	231	
O. W. Barnes, April 30.....	20	
H. W. Gray, May 9.....	13	
C. H. McCormick, May 14.....	313	
L. E. French, June 10.....	10	
H. J. Gilbert, June 15.....	44	
Horatio Gilbert, June 19.....	63	
Oliver Ames, July 26.....	1,563	
Oakes Ames and E. W. Gilmore, July 26.....	450	
John Duff, July 26.....	625	
J. M. S. Williams, July 26.....	312	
W. T. Glidden, July 26.....	313	
H. W. Gray, July 26.....	12	
G. G. Gray, July 26.....	634	
W. D. Forbes, July 26.....	50	
J. B. Alley, July 26.....	250	
Sidney Dillon, July 26.....	312	
H. S. McComb, July 26.....	250	$901,530

Sept. 21. By cash. Amount paid in by John A. Dix for fifty shares, $100 each, subscribed for him this day, making the same full paid $5,000

Sept. 24. By cash. For amount of scrip received from the following named parties in payment of 70 per cent. on number of shares standing in their names, same having been transferred to them by Credit Mobilier of America, being 30 per cent. stock, thus making their stock full paid:

I. P. Hazard, Aug. 3....	250	$17,500
R. G. Hazard, Aug. 3...	1,250	87,500
Charles M. Hall, Aug. 10	15	1,050
O. S. Chapman, Aug. 28	156	10,920
J. Bardwell, Aug. 30....	250	17,500
B. E. Bates, Sept. 18...	600	42,000
James W. Grimes, September 19.....	125	8,750

S. Hooper & Co., September 19.....	250	$17,500	
Horatio Gilbert, Sept. 19	63	4,410	
Horatio J. Gilbert, September 19.....	44	3,080	
F. Nickerson, Sept. 19..	125	8,750	
Ezra H. Baker, Sept. 20.	159	10,920	
C. S. Bushnell, Sept. 22.	750	52,500	
Benjamin Holladay, September 22.....	500	35,000	
Elisha Atkins, Sept. 22.	156	52,500	
Paul Pohl, Jr., Sept. 22.	3	210	
Joseph Nickerson, September 22.....	125	8,750	
H. S. McComb, Sept. 22.	50	3,500	
C. A. Lambard, Sept. 22	625	43,750	
Thomas Nickerson, September 19.....	50	3,500—	$388,010

Sept. 22. By cash. Received from Credit Mobilier of America an installment of 30 per cent. on a subscription to capital stock of 2,000 shares, subscribed for by them 21st instant 60,000

Sept. 22. By scrip. For amount of scrip received from Thomas C. Durant, being for an installment of 25 per cent. on his subscription of 2,000 shares of the stock of this Company, 21st instant..... 300,000

Sept. 27. By cash. For amount paid by Charles Tuttle on 22d inst., being payment in full of his subscription for twenty shares of the capital stock of this Company..... 2,000

Oct. 23. By cash. For amount of installment of 5 per cent. on capital stock of his subscription 500

Dec. 31. By cash. For subscription this day to capital stock by the Credit Mobilier of America, for 19,192 shares of $100 each, 30 per cent paid..... 575,760

Dec. 31. By cash. For 5 per cent. installment received from Credit Mobilier of America, on subscription of 12,000 shares

made by T. C. Durant, on which 25 per cent. was paid, this installment making same 30 per cent. stock..... $60,000

Dec. 31. By cash. For 30 per cent. installment on new subscription of Credit Mobilier of America for 19,200 shares, on which they paid upon 19,992 shares, leaving 8 shares now received..... 240

Dec. 31. By scrip. For 70 per cent. on 24,494 shares capital stock paid in this day:

	SHARES.
John Duff	1,250
S. Dillon	625
J. M. S. Williams	620
Oliver Ames	3,125
B. E. Bates	600
John B. Alley	500
W. D. Forbes	100
H. Gilbert	125
C. H. McCormick	625
Elisha Atkins	312
H. S. McComb	550
P. Pohl, Jr	6
Thos. Nickerson	100
B. D. Stuart	5
R. Hazard	250
G. F. Train	250
Williams & Guion	250
C. S. Bushnell	700
J. H. Scranton	5
David Jones	250
C. C. Waite	50
Geo. Opdyke	350
T. C. Durant	5,808
G. G. Gray	1,267
G. F. Train	125
C. A. Lambard	1,250
W. T. Glidden	625
O. S. Chapman	312
J. Nickerson	250
F. Nickerson	250
I. P. Hazard	250
S. Hooper & Co.	500
H. J. Gilbert	87

	SHARES	
Oakes Ames	800	
E. H. Baker	313	
J. L. King	50	
J. W. Grimes	250	
J. Bardwell	250	
E. W. Gilmore	100	
O. W. Barnes	10	
L. E. French	20	
H. W. Gray	25	
W. H. Macy	250	
Benj. Halliday	500	
E. Reed Meyer	20	
H. C. Crane	30	
T. C. Durant	260	
D. Jones	250	
Geo. Opdyke	119	
1866	24,494	$1,714,580
Dec. 31. To scrip. For 70 per cent. on 313 shares belonging to C. H. McCormick, paid in by him this day, making said stock full paid		21,910
Dec. 31. By scrip. For 70 per cent. of 6,000 shares, belonging to T. C. Durant, paid in by him this day, making said stock full paid		420,000
1867		
Feb. 27. By scrip. For 70 per cent. paid in by Elisha Atkins, on 50 shares		3,500
March 25. By scrip. For scrip received from R. G. Hazard, March 9, on account of 250 shares		17,500
April 29. By scrip. For scrip received from Credit Mobilier of America, to make the following stock 30 per cent. paid: 1,400 shares Credit Mobilier of America, 10 per cent	$28,000	
Less over-payments as follows:		
E. H. Rosekrans, 200 shares, 2 per cent	$1,000	
Credit Mobilier of America, 200 shares, 5 per cent	1,000	
Credit Mobilier of America, 250 shares, 10 per cent	2,500	4,500 $23,500

Oct. 10.	By scrip. For amount scrip surrendered by John E. Henry, being 15 per cent. on 100 shares standing in his name, making same 30 per cent. stock.....		$1,500
Oct. 28.	By scrip. Amount received from S. B. Chittenden, being 20 per cent. on 10 shares, making same 30 per cent.....		2,000
Oct. 31.	By scrip. For amount received from Morris Ketcham, being 20 per cent. on subscriptions of 20 shares, making same 30 per cent. paid.....		4,000
Nov. 1.	By sundries:		
	By scrip	$1,970	
	Credit Mobilier of America for amount paid in.....	13,530	
	This day following subscriptions:		
	V. W. Shipmen, 20 shares, 20 per cent.....	4,000	
	D. W. Barnes, 20 shares, 20 per cent.....	4,000	
	C. R. Shelder, 15 shares, 20 per cent.....	3,000	
	W. B. Ogden, 5 shares, 10 per cent.....	500	
	O. D. Ashley, 20 shares, 20 per cent., making same 30 per cent.....	4,000	15,500
Nov. 7.	By Credit Mobilier of America for amount paid this day on following stock:		
	E. V. W. Shipmen, 10 shares, 20 per cent.....	$2,000	
	A Campbell, 5 shares, 20 per cent., making same 30 per cent. paid.....	1,000	$3,000
Nov. 20.	By cash. Capital stock, R. Nally.		4,000
Dec. 14.	By cash. Capital stock, sundries:		
	Francis Smith..... ..	$200	
	Samuel Sloan.....	1,000	
	Cornelius Mead.....	4,000—	$5,200
Dec. 17.	By cash. Cash to sundries; capital stock on accouut:		
	James Barthish, 20 shares, 20 per cent.....	$4,000	

2340
787

J. F. Chamberlain, 30 shares, 20 per cent	$6,000	
G. W. Cass, 5 shares, 20 per cent	1,000	
J. F. Lamo, 5 shares, 20 per cent	1,000	
J. E. Thompson, 5 shares, 20 per cent	1,000	
J. Ulrich, 65 shares, 20 per cent.	13,000	
Silas Seymour, 30 shares, 20 per cent	6,000	
G. A. Thompson, 5 shares, 20 per cent	1,000—	$33,000
Dec. 18. By cash. Cash to sundries; capital stock on account		4,000
Dec. 20. By cash. Capital stock:		
Tiffany & Co., 10 shares 20 per cent	2,000	
A. G. Butler; 10 shares 20 per cent	2,000	
W. E. Dodge, 20 shares, 20 per cent	4,000	
D. A. Carrington, 20 shares, 20 per cent	4,000	
G. W. Hodges, 20 shares, 20 per cent	4,000	
F. S. Winston, 5 shares, 20 per cent	1,000—	17,000
Dec. 24. By cash. Clark Bell, 20 shares, 10 per cent	2,000	
Clark Bell, 10 shares, 20 per cent	2,000—	4,000
Dec. 27. By cash. Alex Hay, 20 shares, 10 per cent	2,000	
A. G. Jerome, 20 shares, 20 per cent	4,000	
W. Tilden, 10 shares, 20 per cent	2,000	
Henry Blood, 5 shares, 20 per cent	1,000	
James C. Kennedy, 10 shares, 10 per cent	1,000—	10,000
Dec. 28. By cash. Capital stock, E. Cook, J. E. Henry, 100 shares, 15 per cent		1,500

1868.

Jan. 4. By cash. Capital stock, contractors, 22,960 shares		$2,296,000
Credit Mobilier of America, 15,881 shares, at 70 per cent		1,111,670
R. F. Gordon, 5 shares at 90 per cent		4,500
Jan. 31. By cash to capital stock:		
T. C. Durant	8,000	
J. G. Megrath	800—	8,800
Feb. 27. By cash. To capital stock:		
August Belmont, 80 per cent. on 10 shares	8,000	
L. W. Jerome, 90 per cent. on 20 shares	18,000	
W. R. Travers, 90 per cent. on 20 shares	18,000	
G. R. Smith, 90 per cent. on one share	900	
John Rickley, 80 per cent. on one share	800—	45,700
April 7. By cash. To capital stock:		
S. C. Pomeroy, 90 per cent. on five shares	4,500	
O. P. Hurford, 75 per cent. on one share	750	
A. Kountze, 80 per cent. on three shares	2,400—	7,650
June 17. By cash. To capital stock: Benjamin E. Bates, treasurer		1,500,000
July 3. By cash. To capital stock: Contractors, 25,000 shares		2,500,000
July 9. By cash. B. E. Bates, trustee for contractors		300,000
J. J. Crane		4,500
Sept. 16. By cash. John Butterfield	$8,000	
Ransom Gardner	3,500	
Moses H. Grinnell	7,000—	18,500
Dec. 30. By cash. H. C. Crane, assistant treasurer, 75,000 shares		7,500,000
1869		
Feb. 17. By cash. H. C. Crane, assistant treasurer, subscription 40,000 shares		4,000,000
Oct. 26. By cash. B. E. Bates, treasurer of trustees, subscription 10,000 shares		1,000,000

Nov. 3. By cash. John A. Rice, assistant treasurer of trustees, subscription 10,000 shares		$1,000,000
Nov. 26. By cash. B. E. Bates, treasurer of trustees, subscription 10,000 shares		1,000,000
Dec. 18. By cash. B. E. Bates, treasurer of trustees, subscription 10,000 shares		1,000,000
1870		
Jan. 11. By cash. B. E. Bates, treasurer of trustees, subscription 10,000 shares		1,000,000
Jan. 25. By cash. B. E. Bates, treasurer of trustees, subscription 10,000 shares		1,000,000
Feb. 11. By cash. B. E. Bates, treasurer of trustees, subscription 20,000 shares		2,000,000
Feb. 18. By cash. B. E. Bates, treasurer of trustees, subscription 10,000 shares		1,000,000
July 29. By cash. B. E. Bates, treasurer of trustees, subscription 30,000 shares		3,000,000
1864.		
Nov. 11. Capital stock debtor to cash: For amount paid Robert Watkinson, being 10 per cent. on his subscription, paid by him in error on second installment, new call, made for 5 per cent., and paid by him	$1,000	
1866.		
July 30. Capital stock debtor to cash: For repaid 10 per cent. installment on stock, 20 shares, in name of H. S. McComb, being amount overpaid 18th inst.	2,000	$3,000
Total		$36,762,300

S. H. H. CLARK, being first duly cautioned and sworn to tell the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. What is your name, age, occupation and place of residence?

A. S. H. H. Clark; occupation, railroad management; residence, St. Louis, Missouri.

Q. Are you an officer of The Union Pacific Railway Company?

A. I am.

Q. What office do you hold?

A. I am president of the road.

Q. How long have you been president?

A. Since April, 1892.

Q. Mr. Clark, the names of the plaintiffs in this suit are: Oliver Ames, Oakes Ames, Frank M. Ames, William Powell Mason, E. Pierson Beebee, Charles J. Morrill and Charles F. Choate; state whether you ever had any conversation with them in reference to the bringing of this suit before the same was brought?

A. I did not.

Q. Did you ever have any communication with them directly or indirectly on that subject?

A. No, sir.

Q. Do you know of any other officer of your company who ever had any conversation with them on that subject?

A. I do not.

ALEXANDER MILLAR, being first duly cautioned and sworn to tell the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Will you state your name, age, occupation and place of residence?

A. Alexander Millar; 44 years old; residence, Hyde Park, Massachusetts; I am the secretary of the Union Pacific Railway Company.

Q. How long have you been the secretary of that company?

A. About five years, since March, 1888.

Q. Mr. Millar, were you present at a meeting of the Executive Committee of the Board of Directors on the 27th of July?

A. Yes, sir.

Q. Did you act as the secretary of the committee?

A. Yes, sir.

Q. State whether or not at that meeting a communication bearing date Boston, July 5, 1893, signed by Charles F. Choate and Frank M. Ames, as trustee, and another communication of the same form and of the same date signed by Mr. Mason, as trustee, Mr. Beebe signing also as attorney, Mr. Morrill, Mr. Oliver Ames and Mr. Oakes A. Ames were presented to the committee?

A. Yes, sir, there was.

Q. Will you furnish to the officer before whom these depositions are taken, a copy of these communications?

A. Yes, sir.

Q. Taken from your record?

A. Yes, sir; do you wish a certified copy?

Q. Yes, you may certify it.

A. I will.

Q. What action did the committee take?

A. The vote adopted by the committee shows that they declined to grant the request of the gentlemen who sent the two respective letters.

Q. Is that action of the committee of record?

A. Yes, sir; and will be included in the extract which you have requested.

Q. I will ask you to add that to your certified copy of the communication?

A. I will.

Q. Will you state, Mr. Millar, why the Board of Directors did not act upon the two communications I have mentioned, addressed to Mr. Clark?

A. The last previous meeting of the board was held in April and was adjourned to the next regular meeting in September, and the board would not ordinarily come together to act on such matters until that date.

Q. Will you state whether the powers of the board were committed to the Executive Committee of the board?

A. Yes; at the meeting of the board in April, full powers of the Board of Directors, under the charter and by-laws were conferred upon the Executive Committee, while the board is not in session.

Q. Was a record made of that action of the board?

A. Yes, sir.

Q. Will you please add to your deposition a certified copy of the vote of the Board of Directors in that behalf?

A. Yes, I will.

Q. And will you also add to your deposition a certified copy of the by-laws under which the board took this action?

A. Yes, sir.

(Signed) ALEX. MILLAR.

Subscribed in my presence and
sworn to before me this 17th
of January, 1894.

EDWARD CARROLL, JR.,
Notary Public Rockland County
[Seal] Crt., filed in N. Y. Co.

A CERTIFIED COPY OF EXTRACT FROM THE BY-LAWS OF THE UNION PACIFIC RAILWAY COMPANY DEFINING THE POWERS OF THE EXECUTIVE COMMITTEE.

ARTICLE 5.

STANDING COMMITTEES.

"SECTION. 1 The standing committees shall consist of an Executive Committee, a Finance Committee and a Land Committee. They shall be appointed by the board and shall each consist of seven members.

"SEC. 2. The Executive Committee shall have and may exercise by a majority of its members, all the powers and authority which from time to time may be delegated to said committee by the Board of Directors."

A true copy.

Attest:

[Seal] (Signed) ALEX. MILLAR,

BOSTON, Dec. 11, 1893. Secretary.

THE UNION PACIFIC RAILWAY COMPANY.

(Certified Copy.)

At a meeting of the Executive Committee of the Union Pacific Railway Company, held in Boston July 27, 1893, the following action was had:

The vice president submitted two letters addressed to the president by W. Powell Mason, trustee, and others, and Charles F. Choate and others, respectively, creditors and stockholders of this company, insisting that the company shall decline to put the maximum rates fixed by the Legislature of Nebraska into operation, and to test the validity of the statute in the Courts.

Whereupon, on motion of Mr. Dexter, it was.

VOTED, Unanimously that the vice president be, and hereby is, authorized to inform Mr. W. Powell Mason, trustee, and others, that while the directors of the company are satisfied that the maximum rate law, if enforced, will operate to the great disadvantage of this company, and its auxilary lines in the State of Nebraska, they do not feel justified in declining to put in operation the rates prescribed therein as requested by the creditors and stockholders of the company in their letters to the president, dated July 5th, 1893.

A true copy.

Attest: ALEX. MILLAR,
Secretary.

[Seal.]

BOSTON, Dec. 11, 1893.

Certified copy of the two letters referred to in the foregoing vote:

BOSTON, July 5, 1893.

S. H. H. Clark, Esq., President Union Pacific Railway Co., Ames Building, Boston.

SIR:—The undersigned, creditors and stockholders of our company, hereby call your attention to an act lately passed by the Legislature of Nebraska, attempting to fix maximum rates to be charged by railroad companies in that state for transportation of freight. The operation of that statute will be disastrous to the interests of our company. We are informed and confidently believe that the result will be the reduction of the earnings of the roads below the point at which their operating expenses, fixed charges, and a reasonable return to their stockholders can be realized.

We call your attention to several grave objections to this enactment.

1. The provisions of the Constitution of the State of Nebraska were not observed in the proceedings in the Legislature while the bill was under consideration, by reason of the fact that the same was not read on three successive days in each of the two Houses, and the bill as voted upon by the two Houses radically differs from that signed by the Governor.

2. The bill is obnoxious to the constitutional objection that it does not provide for a judicial inquiry into the reasonableness of the charges therein provided for.

3. The charges prescribed in the act are not just and reasonable, and are unequal between the different localities on the line of the roads.

4. That the statute discriminates between the different railroad companies in the state in such a manner that one of the great lines of railroad, the Rock Island line, is not subject to the new rates.

Other objections in the same line as those mentioned above may be urged against the validity of this legisla-

tion, but those mentioned justify us, as stockholders of the company, in insisting that the directors should take some measures effectually to protect our interests in the company against the operation of the statute.

We insist to you and the Board of Directors that the company shall decline to put the rates in operation, and by proper legal proceedings test the validity of the statute in the courts.

Your attention is called to the fact that the statute takes effect on the first of August, next. It is therefore of the utmost importance that your board take action upon the matter of this communication at the earliest practicable moment.

(Signed) W. POWELL, Trustee.
E. PIERSON BEEBE, and as attorney
G. J. MORRILL.
OLIVER AMES.
OAKES A. AMES.

BOSTON, July 5th, 1893.

S. H. H. Clark, Esq., President Union Pacific Railway Co., Ames Building, Boston, Mass.

SIR:—The undersigned, creditors and stockholders of our company, hereby call your attention to an act lately passed by the Legislature of Nebraska, attempting to fix maximum rates to be charged by railroad companies in that state for the transportation of freight. The operation of that statute will be disastrous to the interests of our company. We are informed and confidently believe that the result will be the reduction of the earnings of the roads below the point at which their operating expenses, fixed charges, and a reasonable return to their stockholders can be realized.

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2. The bill is obnoxious to the constitutional objections that it does not provide for a judicial inquiry into the reasonableness of the charges therein provided for.

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4. That the statute discriminates between the different railroad companies in the state in such a manner that one of the great lines of railroad, the Rock Island line, is not subject to the new rates.

Other objections in the same line as those mentioned above may be urged against the validity of this legislation, but those mentioned justify us, as stockholders of the company, in insisting that the directors should take some measures effectually to protect our interests in the company, against the operations of the statute.

We insist to you and the Board of Directors that the company shall decline to put the rates in operation, and by proper legal proceedings test the validity of the statute in the courts.

Your attention is called to the fact that the statute takes effect on the first of August, next. It is therefore of the the utmost importance that your board take action upon the matter of this communication at the earliest practicable moment.

(Signed.) CHARLES F. CHOATE,
FRANK M. AMES.

A true copy.

Attest:

[SEAL] ALEX. MILLAR,
Secretary.

BOSTON, Dec. 11, 1893.

THE UNION PACIFIC RAILWAY CO.

(Certified Copy.)

At a meeting of the Board of Directors of the Union Pacific Railway Company held at the office of the company at Boston, Massachusetts, April 26, 1893, the following vote was adopted:

"VOTED, unanimously, that while the Board of Directors is not in session, the full power thereof, under the charter and by-laws of the company, be, and hereby is conferred upon the Executive Committee."

A true copy.

Attest:

[SEAL.] ALEX. MILLAR,
Secretary.

BOSTON, December 11, 1893.

Deposition of Frank D. Butrick, of Boston, in the County of Suffolk, and Commonwealth of Massachusetts, a witness produced, sworn and examined on the eighth and ninth days of February, 1894, at his office in the Ames Building, in said Boston, by me, Henry M. Spellman, a notary public duly authorized and empowered to take the deposition of the said Frank D. Butrick, a witness in a certain cause pending in the Circuit Court of the United States for the District of Nebraska, wherein Oliver Ames et al, are plaintiffs and The Union Pacific Railway Company et al, are defendants, on the part of the plaintiffs.

The said Frank D. Butrick being produced as a witness to said cause on the part of the plaintiffs, and being cautioned

and sworn by me prior to his examination, to testify the truth, the whole truth and nothing but the truth relating to the cause for which his deposition was to be taken, testified, in answer to the interrogatories and cross interrogatories hereto annexed, as follows:

Interrogatories to be propounded to Frank D. Butrick, a witness to be produced, sworn and examined in a certain suit pending in the United States Circuit Court for the District of Nebraska, between Oliver Ames and others, plaintiffs, and the Union Pacific Railway Company and others, defendants.

1. What is your name, age, occupation and place of residence?

2. Have you any connection with the Union Pacific Railway Company and if so in what capacity?

3. Produce to the officer taking this deposition, the transfer register of shares in the capital stock of the Union Pacific Railway Company and point out the entries therein showing the number of shares on the 23rd day of July, 1893, and at this time, standing in the name of each of the following parties: Oliver Ames, Oakes A. Ames, Frank M. Ames, William Powell Mason, E. Pierson Beebe, Charles J. Morrill and Charles F. Choate.

4. Attach to your deposition a copy of the said entries certified by you as transfer agent of said company.

5. If you know of any other matter pertinent to the matters hereinbefore inquired after, set the same forth as

fully and particularly as if you were specially interrogated thereto?

NOTE: The officer taking this deposition, is requested to compare the copy made and certified by the witness of the entries in the transfer book with the original and certify that the same is correct.

Answers to the interrogatories propounded to the said Frank D. Butrick on the part of the plaintiffs.

Ans. to Int. 1. Frank D. Butrick, 39 years; transfer agent of the Union Pacific Railway Company, Boston.

Ans. to Int. 2. Yes, as answered in previous question.

Ans. to Int. 3. I point out the entries last preceding July 23, 1893, and annex a statement marked Exhibit "A," showing the number of shares in the names of each of the parties in question. The number of shares in each case remained unchanged at the date enquired of. The statement also shows the number of shares standing in the names of the respective parties at the present time.

W. P. Mason was not a shareholder at the date in question nor at any time since.

Ans. to Int. 4. I annex a copy, marked Exhibit "A," of the entries last preceding July 23, 1893, and those last preceding the present date.

Ans. to Int. 5. I do not.

(Signed) FRANK D. BUTRICK.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEBRASKA.

OLIVER AMES et al.
vs.
UNION PACIFIC RAILWAY COMPANY et al.

Cross interrogatories to be propounded to the witness, Frank D. Butrick, in behalf of the defendant, the State Board of Transportation.

1. Do you know the amount of the purchase price paid by the complainants or any of them for the stock which you find standing in their names on the transfer register?

2. If you know the amount of such purchase price please state the same as to each and all of the complainants.

3. Do you know the price at which the stock of The Union Pacific Railway Company was selling upon the market at the date of the respective transfers to the plaintiffs, and if so state that market price at the date of each of the transfers.

4. Was the market price of the stock of The Union Pacific Railway Company at the date of these transfers published in the commercial reports of the stock exchange, and if so, produce before the officer taking this deposition the publication showing the market price at said respective dates of transfers, and state in answer to this question the amount of such market price as published in the commercial reports.

5. State the market value of the shares of stock of The Union Pacific Railway Company as found in the commercial reports at the date of the commencement of this action, to wit, July 29, 1893.

JNO. L. WEBSTER,

Solicitor State Board of Transportation, Defendant.

Answers to cross-interrogatories propounded to the said Frank D. Butrick on the part of the defendant:

Ans. to Cross-Int. 1. No, I do not.

Ans. to Cross-Int. 2. I do not know.

Ans. to Cross-Int. 3. I have examined the dates upon which the shares held by the parties named on July 23, 1893, were transferred to them on the books, and the market prices at the Boston Brokers' Board of these dates, and I find the facts as set forth in a statement hereto annexed, marked Exhibit "B."

Ans. to Cross-Int 4. I know of no publication in permanent form, except the newspapers, of the daily reports of sales at the stock exchange, and I have had to examine the records in brokers' offices, made at the time from the daily reports of sales.

I cannot produce them.

The rest of the question is answered above.

Ans. to Cross-Int. 5. The answer to this question appears in Exhibit "B."

FRANK D. BUTRICK.

EXHIBIT A.—H. M. S. U. P.

DATE.	NO. OF TRANSFER.	NO. OF CERTIFICATE.	SHARES. DR.	SHARES. DR.	CR.	BAL.
		OLIVER AMES.				
1892.						
Jan 4,			100			85
1893.						
Oct. 10,				10		35
		OAKES A. AMES.				
1893.						
July 12,		C 9 188		100	2	600
Sept. 18,	dis. 950		400		2	300
		FRANK M. AMES.				
1891.						
Sept. 9,		C 8 194		100	1	625

DATE.	NO. OF TRANSFER.	NO. OF CERTIFICATE.	SHARES. DR.	SHARES. DR.	CR.	BAL.
		E. PIERSON BEEBE.				
1886.						
Sept. 11,		E 24 809			5	
		D 3 256			50	255
		CHARLES J. MORRILL.				
1884.						
May 22,	dis. 941	C 3 708			100	
1893.	"	C 3 709			100	200
Sept. 6,	"		200			
		CHARLES F. CHOATE.				
1891.						
April 30,	B 4260		300			200
1893.						
Sept. 11,	dis. 943		200			0
		CHARLES F. CHOATE.				
1891.						
July 21,	B 8077	C 8 080			100	100
1893.						
Oct 12,	"		100			

A true copy of my records.

FRANK D. BUTRICK,

Transfer Agent, Union Pacific Railway Company.

EXHIBIT B.—H. M. S. U. P.

Mr. Oliver Ames was the owner, as shown by the stock ledger of The Union Pacific Railway Company, on July 23, 1893, of eighty-five shares, and now owns thirty-five shares, fifty shares having been discharged on August 30, 1893, from registry on the books in Boston to those of New York.

The eighty-five shares were transferred to him, according to the company's books, as follows:

DATE.	NUMBER OF SHARES.	RECORDED MARKET PRICES.
January 5, 1884	10	71¼
January 24, 1888	25	55
February 8, 1889	50	64⅛—64½

Mr. Oakes A. Ames was the owner, as shown by the stock ledger of The Union Pacific Railway Company, on July 23, 1893, of 2,700 shares, and now owns 2,300 shares, 400 shares having been discharged from registry on the books in Boston to those in New York, on September 18, 1893.

The 2,700 shares were transferred to him as follows:

DATE.	NUMBER OF SHARES.	RECORDED MARKET PRICES.
March 10, 1881	100	121¼—123¼
August 25, 1881	100	119½
October 10, 1881	100	118½—120
October 7, 1882	100	106¾—105½
October 31, 1882	100	107⅜
February 3, 1883	100	97
February 9, 1883	100	94½
February 19, 1883	100	94
January 2, 1884	1,000	70¼
January 19, 1884	200	73½
April 26, 1884	200	66½—68
May 8, 1884	100	55½—56
May 8, 1884	200	
July 12, 1893	100	20⅜
July 20, 1893	100	18⅜—19¾
	2,700	
Discharged to New York, September 18, 1893	400	
	2,300	

Mr. Frank M. Ames was the owner, as shown by the stock ledger of the Union Pacific Railway Company, on

July 23, 1893, of 1625 shares, and owns, on February 8, 1894, the same number of shares, no change having been made in his account between those dates.

Shares were transferred to him as follows; the prices given being the recorded market prices of the day:

DATE.	NUMBER OF SHARES.	RECORDED MARKET PRICES.
Feb. 28, 1887	100	57 1/8—57 3/4
Oct. 20, 1887	12	45 3/4—48 3/4
Jan. 25, 1889	500	62 3/4—63
Feb. 14, 1889	100	65 1/2—65 7/8
Dec. 18, 1889	13	69 1/2—69
Jan. 27, 1891	800	41 5/8
Sept. 9, 1891	100	42 —43 1/2
	1,625	

Mr. E. Pierson Beebe was the owner, as shown by the stock ledger of the Union Pacific Railway Company, on July 23, 1893, of 255 shares, and now owns, February 8, 1894, the same number of shares, no change having been made in his account between the above dates.

Shares were transferred to him, as follows:

DATE.	NUMBER OF SHARES.	RECORDED MARKET PRICES.
Apr. 25, 1883	75	97 5/8
Apr. 26, 1883	75	97 3/4
Aug. 16, 1883	50	88 3/4
Sept. 11, 1886	55	57 1/8—57 1/4
	255	

Mr. Beebe also holds, as trustee, transferred to him on

Sept. 11, 1886	55	57 1/8—57 1/4

Mr. Charles J. Morrill was the owner, as shown by the stock ledger of the Union Pacific Railway Company, on July 23, 1893, of 200 shares, which was transferred to him May 22, 1884, on which date the market price was from $32.25 to $40 per share. The 200 shares were sold September 6, 1893, and his account has remained closed since that date.

Mr. Charles F. Choate was the owner, as shown by the stock ledger of The Union Pacific Railway Company, on July 23, 1893, of 300 shares, which shares were transferred, 200 on September 11, 1893, and 100 on October 12, 1893, and since the last named date his account has remained closed.

The 300 shares were transferred to him, according to the company's books, as follows:

DATE	NUMBER OF SHARES.	RECORDED MARKET PRICES.
July 18, 1887	100	55½—56
July 10, 1890	100	62⅞—63
July 21, 1891	100	42¼
	300	

July 29, 1893, the recorded market price of Union Pacific stock was 17—17¼.

All the prices given in this statement are the market prices of the day, as shown by the reports of the sales of stocks at the Boston Brokers' Board.

TESTIMONY TAKEN IN BEHALF OF STATE BOARD OF TRANSPORTATION, DEFENDANT.

J. E. HOUSE, being first duly sworn, testified in behalf of respondents:

DIRECT EXAMINATION.

By Mr. Webster:

Q. You may state your name, age and place of residence?

A. My name is J. E. House, age 62, residence Omaha, Neb.

Q. How long have you been a resident of Nebraska?

A. Thirty years.

Q. What is your profession?

A. Civil engineer.

Q. Have you been connected with the engineering department of railroads and engaged in the construction of railways?

A. Yes, sir.

Q. You may state where your first experience was in railroading?

A. It was in the State of Illinois in the interest of the Rock Island, making a survey from Peoria to Bureau Valley Junction.

Q. When was that?

A. In the spring of 1853, the months of March and April.

Q. That continued how long?

A. We were engaged on that work about six weeks.

Q. What capacity?

A. I was a flagman; carried a flag.

Q. With the engineering corps?

A. Yes, sir.

Q. Where was your next railroad work?

A. It was in the State of Iowa in the interests of the Mississippi & Missouri R. R. Co.

Q. Between what points?

A. Between Davenport and Council Bluffs.

Q. How long were you engaged with that railway company?

A. From May, 1853, continuously until the fall of 1854, and from the spring of 1855 until the spring of 1856 on the construction of the road between Davenport and Iowa City and from 1858 until 1859 in the western part of the state, with headquarters at Council Bluffs.

Q. I do not recall that you have stated in what department you were engaged?

A. In the engineering department.

Q. What was the length of the line constructed during your administration of that company?

A. Fifty-five miles between Davenport and Iowa City; the rest of the time was in the prosecution of surveys.

Q. What was the entire length of line surveyed during your administration?

A. The exact miles I cannot give, but somewhere between 325 and 350 miles across the State of Iowa.

Q. During that employment by that company what

experience did you have in connection with the construction of any part of the line?

A. I was second assistant on the construction between the Cedar River and Iowa, thirty odd miles of road in which I took the personal charge of the excavation and the bridging and track laying; that is, when it reached that division.

Q. As engineer, what did you then learn during your experience with that company as to the cost of laying out and constructing the road-bed?

A. I was able to determine the cost of material that was used in the excavation and the cost of material that went into the bridging, as to the prices at that time.

Q. While you were engaged in construction for that company did you become informed as to the value of iron used in the construction; rails, spikes, chairs and also ties?

A. Only in a general way.

Q. With what company was your next employment as engineer?

A. On the Union Pacific.

Q. Beginning, when?

A. In October, 1862.

Q. In what capacity was you then employed by the Union Pacific?

A. There were no titles, excepting that Mr. Dey was at the head of the organization of the engineering corps, and I was ranking next to him.

Q. How long did you continue with that company under Mr. Dey?

A. Until his resignation, which took effect in 1864.

Q. Who succeeded Mr. Dey?

A. The gentleman that was here in charge was Mr. Ainsworth; Mr. Ainsworth arrived some time during the season of 1865, but exactly what time I cannot state. I think he was here in that capacity in the neighborhood of a year.

Q. How long did you continue with the Union Pacific Company, in all?

A. From the fall of 1863 until November, 1869.

Q. Did that period of time cover the construction of the main line of the road?

A. Yes, sir.

Q. During this time were you engaged in the construction of the road to any extent; and, if so, explain to what?

A. In April, 1864, under the Dey administration, the work that was started was placed in my charge at Omaha, and so considered as long as we remained with the company, and my services were then directly with The Union Pacific Railway Company. After his resignation there was a new company organized which was known as the contractors for building The Union Pacific Railway Company. Mr. John E. Henry, of Davenport, Iowa, was chief engineer. I was transferred at that time from the railway company proper to the construction department of the road and occupied a position a division engineer in charge of construction, and remained in that capacity until January, 1866,

after the first forty miles of road was completed and accepted by the road. I was succeeded by Mr. S. B. Reed, and was transferred back to the engineering department of The Union Pacific Railway Company, and at that time made the lecation of the southern 100 miles of The Union Pacific road, and remained in that department until the appointment of General Dodge as chief engineer, which occurred in May, 1866, and I was then placed in charge of the chief engineer's office and remained in charge of that office during the period named to 1869.

Q. How much of the road was constructed under your management as engineer in charge of construction?

A. As I stated before, there was forty miles of iron laid; the grading had been nearly completed to Columbus and the bridge had been started over the Loup Fork River; some ties had been manufactured and delivered at Omaha beyond the amount that was needed for the forty miles, and bridge material had been furnished for the continuation of the road.

Q. This work was performed under whose contract; or, in other words, whose contract covered the line first west of Omaha?

A. That is known as the Hoxie contract.

Q. Whose contract was next in order west of it?

Mr. Woolworth objects to all this line of inquiry as immaterial and irrelevant.

A. The contract known as the Oakes Ames contract.

Q. In whose name was the next succeeding contract?

A. It was known as the Davis contract.

Q. State how many miles of road were included in the Hoxie contract?

A. In round numbers about 247 miles.

Q. How many miles in the Ames contract?

A. 667 miles.

Q. How many in the Davis contract?

A. 'Bout 125 miles.

Q. These contracts thence extended from Omaha to Ogden or the end of the line?

A. Yes, sir.

Q. During the course of the construction of the road under these three respective contracts state what knowledge you then had or acquired in the line of your duties of the cost of construction as well as material going into construction?

A. I acquired an actual knowledge of grading and bridging. I acquired from the reports of persons furnishing material the cost of iron and other material that went into that construction of the road; iron, ties, chairs and spikes, machinery and so on. A general knowledge of that in that way

Q. After the termination of your employment with the Union Pacific, did you have other railway experience, and if so with what company next?

A. I was employed as chief engineer in the construction of the Omaha & Northwestern Railway and with its successors.

Q. For how many miles and between what dates?

A. From about the first of December, 1869, until June, 1881.

Q. What line of road was constructed under your administration as engineer for that company?

A. From Omaha to Oakland, in Burt County, Nebraska.

By Mr. Woolworth:

Q. Suppose you give the number of miles from Omaha to Oakland?

A. Between fifty and fifty-five miles.

By Mr. Webster:

Q. In addition to your duties as engineer, in what other capacity did you act for this company and its successor?

A. I acted as their superintendent.

Q. Of operation?

A. Of operation.

Q. How long did you act as superintendent?

A. I cannot give the exact dates; from the early part of 1871 until 1881.

Q. What railway company now operates that line of road?

A. The Chicago, St. Paul, Minneapolis & Omaha, what is known as the Omaha line.

Q. Is that what is known as part of the Chicago & Northwestern system?

A. Of course I know it is generally understood to be a part of that system.

Q. Did you afterward have employment with any other railway company ; if so, what company?

A. My next connection was with the Missouri Pacific in the construction of a road from the junction west of Papillion on the Union Pacific to the Central Branch junction of the Union Pacific near the city of Atchison, Kansas, a distance of 147 miles in round numbers.

Q. State what duties you performed for that company?

A. I was chief engineer of the Kansas and Nebraska divisions of the Missouri Pacific and had full charge of its construction in Kansas and Nebraska.

Q. What other duties did you perform for that company aside from that of chief engineer of construction?

A. After the road was completed in June, for a short time I served them as chief engineer and superintendent of the Kansas and Nebraska division of the Missouri Pacific.

Q. Did you have occasion during your connection with that company to acquaint yourself with the cost of labor and material entering into construction?

A. Yes, sir; that is I let the contracts for the grading for the bridging, for the construction of tanks and wind mills, station houses and stock yards and section houses and all that pertained to the construction of the road in that respect. The contracts for iron and spikes and chairs and so on, I had nothing to do with further than to pay the bills as they were presented, drawing on the St. Louis office for

the funds. I might say in this connection that this work was all under the direct charge of the general manager of the road; I received my authority from him, Mr. A. A. Talmage.

Q. Going back to the Union Pacific with a view of inquiring into the actual cost of its construction, do you know about the time when the first estimate was made under Mr. Dey as chief engineer of any part of that line of road?

Mr. Woolworth renews his objection to this line of inquiry and all questions that may be propounded on this subject as immaterial and irrelevant.

A. I know of an estimate being made in the fall of 1864 by Mr. Dey.

Q. Can you state the amount of that estimate per mile and how many miles it covered?

A. Mr. Dey made two estimates; one for a price at the rate of $50,000 a mile for 100 miles of road, the other estimate for about $30,000 a mile for the same distance over what was then known as the Dey line, which was the short line between Omaha and the Elkhorn. They were both over the Dey line.

Q. My question related to the first estimate made by Mr. Dey; I don't want to get the two mingled together; state which was the first estimate?

A. The $30,000 a mile was the first estimate.

Q. Was that made during the time when you were in the office in connection with the engineering department?

A. Yes, I helped to make the estimate.

Q. Now, what can you say as to the correctness of that estimate of $30,000 per mile; as to whether it was too high, too low or reasonable?

A. It was considered at that time to be a very reasonable estimate; a very fair one to contractors, leaving them a fair margin for the construction of the road, taking everything into consideration, the price of material, transportation and everything of that kind was all carefully gone over.

Q. Did that estimate of $30,000 per mile include equipment?

A. I think it did.

Q. You may state, if you can from your experience in connection with the roads in the State of Iowa, whether or not this $30,000 per mile was more than it cost to construct the lines of road with which you were connected in the State of Iowa just preceding this period of time?

A. The excavation and bridging on the Iowa lines of road were greater in comparison than they were in the State of Nebraska; the cost of material was greater in the State of Nebraska than it was in the State of Iowa. I do not think at that time we made any comparison as between Nebraska and Iowa in the cost of construction.

Q. In that connection, so I need not go back to it later on—are you familiar sufficiently with the topography of Iowa and Nebraska or more particularly with the territory

of Iowa through which runs the Burlington, the Northwestern and the Rock Island in comparison with the territory through which the Union Pacific runs in the State of Nebraska, to state through which territory the construction of the road bed would be the cheapest, taking into account grades, cuts and fills, etc. In this connection, proceed to describe the difference, if any, in the topography of the two territories in the two respective states mentioned?

A. The road bed in the State of Nebraska can be constructed cheaper than it can in the State of Iowa; its general grades on the different lines of road in Nebraska are lighter than they are in Iowa, the cause of this is the general construction of the roads leading through the State of Iowa across almost entirely the drainage of the country at right angles or nearly so, while on the other hand the ruling roads of Nebraska are following, in a measure, the drainage of the country; consequently, their grades are lighter and their cost of construction is lighter.

Q. I wish to draw your attention a little more particularly to this feature of the line of the Union Pacific as it extends westward through what is known as the Platte Valley?

A. After reaching the valley of the Platte River the entire line of the Union Pacific lies within the valley of the Platte River and its tributaries through the State of Nebraska, so its line follows closely the drainage of the state, and its grades are light, and its excavation is very light.

Q. Is there, in fact, any excavation or filling on the line of the Union Pacific at all from the point where it reaches the Platte Valley west of Omaha, until near the west line of the state?

A. Nothing to speak of, no cuts to exeeed probably six feet in depth and no filling greater than six or eight feet in depth.

Q. Are not such as those very rare, if they exist at all?

A. Yes, sir; only in isolated places, crossing a ravine or quick channels for little short distances, the majority of the road bed for the first, second and third hundred miles and the part of the fourth, excepting this portion that lies between Omaha and the Elkhorn River will not average a three-foot embankment over its entire line as at first constructed.

Q. About how far west from Omaha is it to where the road strikes the Platte Valley?

A. As the road is now built it is between twenty-eight and thirty miles. I do not know the exact distance.

Q. You may state what you wish to be understood to have meant by speaking of the Dey line in a former answer. Was that meant by you to mean a particular line of road mapped out as distinct from some other line afterwards constructed, and if so, state what the distinction was?

A. The Dey line is known as the first location of the Union Pacific west from Omaha. It was afterwards changed to what is now the Union Pacific road as built by way of Mud

Creek, increasing the distance from Omaha to the Elkhorn, or the point of intersection of the two lines of road, between eight and nine miles.

Q. Describe the topography of the country of the two respective lines and state why the change was made?

Objected to by Mr. Woolworth. Not only in addition to the objection I have heretofore made, but at any rate, thus far, it does not appear that this witness knows anything about why the change was made. If he has any personal knowledge of the subject he ought to show it.

A. The first location, or what is known as the Dey line, had ruling grades ascending westerly, of sixty-six feet to the mile, and ascending easterly of eighty feet to the mile. The character of the country was very heavy, crossing several divides. That is the description of the Dey location. Then, the Mud Creek location—the lines are common for a distance of three miles out of the city of Omaha; then it follows a westerly direction down the valley of Mud Creek to its confluence with the Papillion, then in a northwesterly direction in the valley of said stream to its connection with the Dey line, about three miles this side or east of the Elkhorn River, and the grades on this second line; its maximum grades are forty feet to the mile ascending and descending, easterly and westerly.

Q. Then, in short, Mr. House, the Dey line ran over the hill between Omaha and the Platte Valley, and the Mud Creek line undertook to follow around some of the creeks

or ravines, as near as may be, between Omaha and the Platte Valley?

Q. Which of the two lines was the most expensive to construct?

A. The Dey line.

Q. About how much more per mile would that have cost than the line subsequently constructed?

A. In grading and bridging alone the Dey line, between Omaha and the Elkhorn River, would cost about $5,000 a mile more on grades than the Mud Creek line.

Q. Now, going back to the first estimate prepared by Mr. Dey, state if that was on the basis of the construction of the line over what you speak of as the Dey line, or across this rugged bit of country?

A. The first estimate Mr. Dey made was over what is known as the Dey line.

Q. That is the line that would cost $5,000 more per mile than the one actually constructed?

A. I do not mean to say it would cost $5,000 a mile for 100 miles; it would be for the distance between Omaha and the Elkhorn River.

Q. How many miles is it?

A. I think it was eighteen miles and a fraction.

Q. Can you state how long it was after this first estimate of Mr. Dey's of $30,000 had been prepared before the second estimate, heretofore mentioned by you, of $50,000 per mile was prepared?

A. To the best of my recollection the first estimate

was prepared the latter part of August or the first of September, about that time, of 1864, and the second estimate was prepared about the first or possibly the middle of October, 1864.

Q. In the meantime, had the first estimate of $20,000 per mile been submitted to the New York office of the Union Pacific Company?

A. It had.

Q. Do you know whether or not instructions were received from the New York office to make a new and increased estimate?

A. Well, sir, there were such instructions. This estimate was sent back from the New York office to Mr. Day.

Mr. Woolworth: I object to that answer as not responsive to the question and as not the best evidence.

Q. Do you know now who it was that brought the instruction from the New York office to your Omaha office to change that estimate?

A. It was John E. Henry.

Q. And where is John E. Henry?

A. John E. Henry was an engineer connected with the Mississippi & Missouri Railway Company; he was also superintendent of the road between Davenport and Iowa City at one time.

Q. Who was he at this time?

A. He was a gentleman residing at Davenport, Iowa, and was the man at the head of the construction depart-

ment of the contractors for the building of the Union Pacific Railway Company under the Hoxie contract.

Q. You may state further his connection with the contractors, that is to say, what he continued to be from that time on?

A. Why he continued to be at the head of the engineering department in charge of construction until in the fall of 1865, when he resigned.

Q. I want to have you state what connection he had with the contractors during his time, you did not state whether for the road or the contractor. That is what I want to know?

A. He was engineer in charge of construction for the contractors.

Q. Do you know and if so state from whom this order came, or in other words who was in charge of the New York office that issued that order that the Dey estimate should be changed or increased?

Mr. Woolworth objects, because it does not appear that this witness knows anything about that matter.

A. John A. Dix at that time was president of the company, and Thomas C. Durant was vice president or general manager, and this order came from Thomas C. Durant to John E. Henry, and John E. Henry brought it to the Omaha office.

Q. Was this Thomas C. Durant an engineer by pro-

fession, or had he any experience in that line so far as you know?

A. He had none so far as I know.

Q. Under this direction from Durant brought by Henry, what was done by way of preparing a new estimate?

A. A new estimate was prepared and made out at the rate of $50,000 a mile.

Q. And state whether that was over the same line which had been surveyed as the basis of the first estimate of $30,000 per mile?

A. The two lines were common; yes, sir.

Q. What was the manner of procedure to increase the estimate from $30,000 to $50,000 per mile?

A. The different prices for material, as shown upon the one estimate, was increased in proportion to represent the different amounts.

Q. Do you know any reason for making that increase from $30,000 to $50,000 per mile, other than this order from the New York office, heretofore stated by you?

A. That is all I know about it.

Q. Was that increased estimate made before the letting of the contract for the first hundred miles to Hoxie; or, in other words, was this second estimate made the basis of the Hoxie contract?

This is objected to by Mr. Woolworth, on the ground that the witness does not know anything about it personally whatever, and what he does know is by word of mouth from others.

A. It was made afterwards. This second estimate was made after the letting of the work to Hoxie and it was swelled, or the Hoxie contract was made the basis of this contract. I have not got that exactly as I want it. The first part of that answer is all right.

Q. You used the word contract where you mean the word estimate?

A. I have used the word contract there instead of estimate—was made the basis of this estimate.

Q. If you have any further answer or explanation you desire to make you may do so?

A. No, let it go.

Q. What was the price named per mile, if you know, in the Hoxie contract for construction or equipment?

A. $50,000.

Q. And for the purpose of showing your knowledge of that matter did you ever yourself make any estimate for construction under the Hoxie contract during the time the work was being performed?

A. I did, yes, sir.

Q. About this time, or during Mr. Dey's administration, was an estimate made for a second hundred miles of road, and if so, what was the result of that estimate?

A. There was an estimate made of the second hundred miles, but I am not so familiar with that estimate as I was with the first estimate on the first hundred miles.

Q. Have you seen the testimony of Peter A. Dey as found in a public document of the forty-second Congress,

Third Session, Report No. 78, being the report of a select committee of the House of Representatives, commonly known as the Wilson committee?

A. I have read such a report.

Q. Is the Peter A. Dey, therein mentioned, the same person that you have spoken of as the engineer of the Union Pacific road?

A. Yes, sir.

Q. I then wish to call your attention to a question and answer by Mr. Dey found on page 241 of that volume, to wit: "Q. What was the estimate for the second hundred miles?" "A. My impression is that it was about $27,000 a mile." And I now ask you, since hearing this information, whether or no you can state that that was about the estimate when made, to wit, $27,000 per mile?

Objected to by Mr. Woolworth. It does not appear that Dey ever testified to that, and it does not tend to refresh the recollection of the witness.

A. I do not believe that I would be able to recollect that from my own personal knowledge, whether it was $27,000 or another sum.

Q. That is not my question, whether you recollect it from your own personal knowledge. I asked you to state whether, your memory being refreshed by this testimony of Mr. Dey, you can say whether or no that was about the estimate?

Objected to by Mr. Woolworth as the witness does not know whether Dey ever swore to that or not, nor do we.

A. No, I believe not.

Q. Now, Mr. House, were you at that time, in a general way familiar with the cost of construction of the first hundred miles, I will not ask you to state in detail what it was, but simply answer my question whether you have the general information?

A. Yes, sir.

Q. Returning to the same paper or document above mentioned I call your attention to a question and answer of Thos. C. Durant appearing therein, as follows: "Q. What has been the cost of construction of the road over which the Hoxie contract was extended." "A. About $20,000 a mile, exclusive of equipment." I will ask you to state whether from your knowledge of the cost of construction that was about the actual cost of construction to the contractors?

Objected to by Mr. Woolworth as it does not appear that Durant ever testified to that or ever said that was the fact and the thrusting of an assumed statement of his upon the witness cannot assist the witness in recalling the facts.

A. I think it was a fair estimate of the cost of building that portion of the road which he mentions.

Q. After the second estimate, to wit, the $50,000 per mile estimate had been prepared so as to have the estimate comply with the Hoxie contract, was there an assignment or transfer of the Hoxie contract to other persons, and if so, state who those other persons were?

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Objected to by Mr. Woolworth, as it does not appear that the witness has any personal knowledge of that kind.

A. I have no personal knowledge of the transfer, although it was understood that there was a transfer of the Hoxie contract.

Q. Who to?

Objected to by Mr. Woolworth, as secondary evidence.

A. To the Credit Mobilier.

Q. What I want to get is this: What individuals, by name, were the persons that became interested in that contract so transferred?

Objected to by Mr. Woolworth, as the witness has said that he does not know anything about it of his own knowledge and can only state from report, which is secondary evidence.

A. The assignment first was to John R. Duff.

Q. And who was John R. Duff; what relation did he sustain to The Union Pacific Railway Company?

A. I think he was a director in The Union Pacific Railway Company at that time and he was a resident of Boston, and was also interested in the Hoxie contract.

Q. Was it assigned from Duff to the Credit Mobilier or to whom; how did it go to the trustees?

Objected to on the ground that the witness is only speaking from information.

A. It went to the trustees, Thomas C. Durant, C. S.

Bushnell, John B. Alley, I think Springer Harbaugh and Oliver Ames; I think that is all I can recall now, although I think there are others, but I cannot call them by name.

Q. Now, state the relation that these respective trustees to whom the contract was assigned sustained to The Union Pacific Railway Company?

A. They were directors in The Union Pacific Railway Company, and they were also connected with the Credit Mobilier, with the exception of Springer Harbaugh.

Q. Have you a copy of Dey's first estimate, or a copy of any part of that estimate, or a copy of the data upon which that estimate was made?

A. I have an estimate which was prepared by Mr. Dey that was made on the basis of the Hoxie cantract and together with Mr. Dey's first estimate, but it is a second estimate, or what was considered here as his second estimate.

Objected to by Mr. Woolworth as not responsive to the question.

Q. Then you have a copy of an estimate made up on the basis of the Hoxie contract, or in other words of the second estimate under Dey's administration?

A. Yes, sir.

Q. Will you produce that copy?

Objected to by Mr. Woolworth as immaterial and irrelevant.

A. This is copied from that estimate that I have.

By Mr. Woolworth: Do you mean to say that you have got the original estimate?

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A. No; I say I have got a copy of the items which made up that original estimate, as I recollect it now.

Q. You do not know what has become of the original estimate, do you?

A. I do not.

Q. It is not in your possession or control, is it?

A. It is not.

Q. Do you not know from general information and from public documents that the original estimate is lost or otherwise disposed of and cannot be found?

Objected to by Mr. Woolworth, as secondary evidence.

A. Yes, sir.

Q. Will you produce, to the examiner taking this testimony, a copy of the memorandum in your possession for the inspection of opposing counsel, if they desire to see it?

Objected to by Mr. Woolworth as secondary evidence, and if he has any papers from which what he holds in his hands and proposes to present is made from, let him produce them.

By Mr. Webster: Counsel for the State Board of Transportation states that he offers in evidence the original data in the possession of the witness and states to the examiner that a copy thereof is to be incorporated in this testimony and states that the original memoranda in the possession of

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the witness will be produced by the witness in open court at the hearing.

Counsel for the complainant objects to that sort of evidence without the production of the papers introduced in evidence so that the same will be inspected by counsel for the complainant and the witness interrogated in respect to the matter. The fact being that the same are not here and produced so that they may be examined.

Adjourned until 2 o'clock P. M.

January 19, 1894.

JANUARY 19, 1894, 2 P. M.

Pursuant to adjournment the further taking of testimony for defendants was resumed, as follows:

CONTINUATION OF DIRECT EXAMINATION OF MR. HOUSE.

By Mr. Webster:

Q. Mr. House, since the adjourment haye you brought in the book containing the original of your memoranda of the estimate referred to?

A. Yes, sir.

Mr. Webster: I will now offer in evidence the copy of that memoranda to be marked "Defendants' Exhibit One", which is to be attached to this testimony.

The following is a copy of the above mentioned exhibit:

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DEFENDANTS' EXHIBIT ONE.

OMAHA, DECEMBER 21, 1893.

"DEV LINE."

Proportionate cost for building one mile of the first 100 miles of the Union Pacific Railroad, based upon the engineer's estimates of 1864, and the Hoxie contract, as follows, viz:

DESCRIPTION	AMOUNT	TOTAL
Grading and Bridging	$11,425 35	
90 Gr. Tons Rails, at $130.00	11,700 00	
2.64 Tons Spikes, at $240.00	633 60	
1.76 Tons Chairs, at $240.00	422 40	
2,100 Cross Ties, at 60c	1,260 00	
Track Laying	500 00	
Transportation on Iron	3,776 00	
Engineering and Contingencies	914 00	
		$30,631 35
100 miles	$3,063,135 00	
6 miles Sidetrack	115,239 00	
38 Frogs and Switches	3,800 00	
		3,182,174 00
SHOP BUILDINGS AT OMAHA:		
Machine Shop	$36,000 00	
Car Shop	30,000 00	
Blacksmith Shop	7,000 00	
Engine House	15,000 00	
Tank	5,000 00	
Passenger House and Office	20,000 00	
Freight House and Office	10,000 00	
Transfer and Turn Table	8,000 00	
Machine Shop Machinery	12,000 00	
Car Shop Machinery	2,000 00	
Blacksmith Machinery	1,000 00	
Station Houses and Tanks	82,000 00	
Transportation	7,000 00	
		235,000 00

EQUIPMENT:

DESCRIPTION	AMOUNT	TOTAL
8 Locomotives, at $23,000	$184,000 00	
6 Passenger Cars at $4,500	27,000 00	
3 Passenger Cars, 2d class, at $3,000	9,000 00	
3 Baggage, Mail and Express Cars at $2,500	7,500 00	
50 Box Cars at $1,500	75,000 00	
25 Stock Cars at $1,500	37,000 00	
50 Platform Cars at $1,200	60,000 00	
17 Hand Cars	2,550 00	
Transportation	81,150 00	483,700 00
		$3,900,874 00

SUMMARY.

Grading and Bridging	$1,142,535 00
Superstructure	2,039,639 00
Station Houses	235,000 00
Equipment	483,700 00
	$3,900,874 00
Add for extra work ordered by special commission	$168,874 45
Add work on abandoned line	141,113 00
Mud Creek Line	$3,575,614 00

Said exhibit is endorsed as follows:

No. 2. Approximate estimate of the cost of building the first 100 miles of the Union Pacific Railroad—Dey line.

Counsel for complainant renews the same objection made before the adjournment, which is as follows:

Counsel for the complainant objects to that sort of evidence without the production of the papers introduced in evidence, so that the same may be inspected by counsel for the complainant

and the witness interrogated in respect to the matter. The fact being that the same are not here and produced so that they may be examined.

Counsel for the State Board of Transportation states that the memoranda book produced by the witness will be submitted to counsel for plaintiff for the purpose of cross-examination, and will be produced in court upon the hearing.

Q. Now, Mr. House, calling your attention to this account, as shown by the exhibits, I will ask you to state whether that estimate is greater or less than the actual value of that work?

A. It is greater.

Q. I call your attention to the first item, to wit: "Grading and bridging, $11,425.35," and ask you if that is intended in that estimate to represent the cost for grading and bridging per single mile?

Objected to by Mr. Woolworth as immaterial and irrelevant, and as the witness is interrogated as to matter contained in a paper shown to be a copy of some other paper, the original of which is not introduced in evidence nor shown to counsel, and is undertaking to construe the paper presented to him by counsel for defendant.

Counsel for the State Board of Transportation desires the examiner to note the fact that the original book from which the copy introduced as defendant's Exhibit "1" has been produced by the wit-

ness and lies upon the table to be inspected by the counsel for the plaintiff if he desires to inspect it.

Counsel for the complainant says that the paper may lie on the table, but it has not been introduced into evidence nor has any paper book been introduced stated to be a book containing these entries, nor offered to the counsel for the plaintiff for inspection.

A. It was.

Q. You can state now whether or no that item was excessive, and if so to what extent?

A. It was excessive to the extent of about $5,000 a mile.

Q. According to that estimate what item or sum represents the cost for grading and construction per single mile of road. I do not, in this estimate, mean to include the terminals at Omaha, which will hereafter be spoken of distinctly?

A. The item of construction is embraced in the first eight lines and it amounts to $30,631.35 per mile.

By Mr. Woolworth: That, I understand you, is what it actually cost, or is that the estimate?

A. That is the estimate.

Q. That sum of $30,631.35 per single mile includes, does it not, the $5,000 per mile excessive allowed for grading and bridging as shown in the first item?

A. Yes, sir.

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Q. Are there other items in the first eight lines that are excessive?

A. I think probably not, with the exception of probably the transportation on iron, which I—I am unable to give the rest of them on about the value of material at that time in Omaha.

Q. Calling your attention to the item, shop buildings at Omaha, first item, machine shop, $36,000, I will ask you to state whether or no that item is excessive, and if so, to what extent in your opinion?

A. I think that item is excessive by about $10,000.

Q. Calling your attention to the next item: Car shops, $30,000, I will ask you have to say as to that item?

A. The two buildings were very nearly similar, and the amounts would be about proportionate as to its reduction, about $8,000.

Q. The next item: Blacksmith shop, $7,000. What do you say as to that?

A. That is probably about $2,500 excessive.

Q. The next item, engine house, $15,000. What have you to say as to that?

A. The engine house was a five stall house and would cost about $1,800 to $2,000 per stall as that time, that would be about $5,000 excessive.

Q. Tank $5,000. What have you to say as to that?

A. I think $2,500 would cover the cost of the tank that was put up.

Q. Passenger house and office $20,000. What have you to say to that?

A. It was not built.

Q. The next item. Freight house and office. Was that excessive, if so, to what extent?

A. Their freight house and office was nothing but a frame building; it could not have cost over $2,000.

Q. Transfer and turn. table $8,000. How much was that excessive?

A. About $3,000.

Q. Here are three items I shall mention together: Machine shop machinery, $12,000; car shop machinery, $2,000 and blacksmith shop machinery. $1,000, making $15,000 for machinery. Have you any knowledge as to that?

A. I would not be able to testify as to that; I do not know anything about it.

Q. Next item: Station houses and tanks $82,000. What have you to say about that item?

A. That I hardly know how to estimate, as I do not know the number of tanks that were put up. On the basis of what would be considered ample, it could not have cost more than half that amount.

Q. Transportation, $7,000. Do you know anything about that?

A. No; I do not.

Q. All the foregoing items I have mentioned to which you have stated the excessive charges purport to, relate to

buildings to be constructed at Omaha, do they not, excepting possibly station houses and tanks?

A. Yes, sir. Was that station houses and tanks $82,000.

Q. Yes, sir?

A. Possibly I would rather modify that. I thought it alluded to water tanks alone, not stations. I think water tanks and stations ought to be worth about $60,000 or $65,000.

Q. That covers the stations and water tanks on 100 miles of road?

A. Yes, sir.

Q. Now, passing to the matter of equipment. Were you at the time familiar with the character of the equipment upon the road?

A. That which was put on the first 100 miles?

Q. Yes, sir?

A. Yes, sir.

Q. Were you familiar and do you now know what was the fair market value of the class of equipment put upon the first 100 miles of that road?

A. Locomotives were worth about from $15,000 to $18,000 of thirty tons weight.

Q. I see that in this estimate there are put down eight locomotives at $23,000 each, making a sum total of $184,000. What do you say as to the correctness of that item?

A. I think it is very large. $18,000 each ought to cover the expense of those locomotives.

Q. How much a piece?

A. $18,000 a piece.

Q. By that do you mean the cost of the locomotive at Omaha or at the shop where constructed, when you name $18,000?

A. I mean at Omaha.

Q. Now, I see that there are set down here six passenger cars at $4,500 each, total $27,000. What do say as to that?

A. That is a fair price; passenger cars have not varied very much in price; they have increased in quality very materially over the old cars but they range about the same price.

Q. Does that price represent the value of those passenger cars at Omaha?

A. Yes, sir.

Q. I see another item here, three second class passenger cars, $3,000 each, total $9,000. What do you say as to that item?

A. I think that is about fair.

Q. Do you mean their value at Omaha?

A. Yes, sir.

Q. Here there are three baggage, mail and express cars. $2,500 each. Total $7,500. What do you say as to whether or not that was the fair value of those cars at Omaha?

A. I think it was.

Q. Fifty box cars $1,500 each, total $75,000. What do you say as to that?

A. The box cars were worth about $1,200 each.

Q. There are 25 stock cars $1,500 each, total $37,500. What do you say as to that item?

A. They were worth about $1,200 each.

Q. Here are 50 platform cars at $1,200 each, total $60,000. What do you say to that item?

A. Platform cars ranged at that time from $550 to $850; that is the best of my recollection.

Q. Now, all through you have given your prices on locomotives and these cars at Omaha in your estimates?

A. Yes, sir.

Q. Now, I see in addition to what you have given for the overcharge on engines, on locomotives, and the items of overcharge on box cars and stock cars and platform cars, there is in addition another single item, transportation, $81,150. According to your estimate of value that it should not have been included here at all?

A. No, sir; I think not.

Q. Can you explain why that estimate came to be made up in that liberal fashion at that time?

A. Only in the one way, that it was a basis upon which the estimates to the contractors were to be returned from the office at Omaha.

Q. All the items appearing in this statement commencing with shop building at Omaha down to the items of equipment, amount in all to $235,000, and do not belong to

the construction of the road proper, but are in the nature of terminals at Omaha, except the items of station houses and water tanks?

A. Yes, sir.

Q. Have you been familiar in a general way with the line of the road of the Union Pacific across Nebraska from that time down to 1887, or, you may state, to the present time?

A. I was familiar with the line of the Union Pacific road from 1863 until 1869, passing over it frequently, and up to 1876. I have not been beyond Grand Island since 1876.

Q. But since then you have been over the line of the road between Omaha and Grand Island, have you not?

A. Yes, sir.

Q. In general terms there has been no particular change in the condition of the line of road from the time of its construction down to the present time?

A. Not that I am aware of.

Q. It is still a single track road?

A. With the exception of a few miles at this end, it is so far as I know.

Q. You speak of a few miles at this end. How many miles at this end have more than a single track?

A. They have a double track to Gilmore.

Q. Well, name it in miles?

A. It is ten miles, that is, from Omaha.

C. Taking the deductions that you have made, or, in

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other words, the items of excessive charges appearing in this exhibit, Defendants No. 1, what would have been, according to that statement, about a fair sum of money for a single mile of construction as conditions then existed?

A. It would be about $25,000 a mile.

Q. I desire to call your attention to a statement from an executive document, No. 51, Fiftieth Congress, first session, being a report of the Pacific Railway Commission, transmitted to Congress by the President of the United States, and on page 51 thereof, which is a follows:

"Third. The result of these three contracts was as follows:

Cost to railroad company.		
Hoxie contract		$12,974,416 24
Ames contract		57,140,102 94
Davis contract		23,431,768 10
Total		$93,546,287 28
Cost to contractors:		
Hoxie contract	$ 7,806,183 33	
Ames contract	27,285,141 99	
Davis contract	15,629,633 62	$50,720,958 94
		$42,825,328 34

Which I now show the witness and from which it is made to appear that the total paid by the sub-contractors under the Hoxie contract was $7,806,183.33, and ask you to state what that would be per mile for the line of road which was constructed under the Hoxie contract?

Objection by Mr. Woolworth: I object to the document or pretended document referred to as it

is not shown to correctly state the facts and is no basis on which the witness can speak or make an estimate.

A. $31,640 odd dollars.

Q. Per mile?

A. That included equipment also, which was $7,500 per mile.

Q. The form of the question is misleading. I meant to ask you about what was the estimated actual cost of the equipment per mile?

A. I do not recollect that but I could get at it. It is between $4,000 and $5,000 per mile.

Q. That would reduce the cost of construction under the Hoxie contract to the contractors in the neighborhood of $25,000 to $26,000 per mile?

A. Yes, sir.

Q. What do you say as to that being a fair consideration for the construction and equipment of the first 100 miles of road at the time the same was constructed?

A. I would think it would be a fair estimate.

Q. In all the questions that I have asked you with reference to the actual cost of construction upon the line as constructed you have been speaking, have you not with reference to what is called the Mud Creek line as distinct from the Dey line?

A. Yes, sir.

Q. I desire to ask you if you have seen the report made by Richard P. Morgan, Esq., under the direction of

the Pacific Railway Commission, and found reported in executive document 51, part 9, 50th Congress, 1st session?

A. Yes, sir.

Q. I desire now to call your attention to an itemized statement purporting to represent the present cost of reproducing the main line of the Union Pacific Railway System from Omaha to Ogden found on page 4,454 of said document which is as follows:

Estimate of the present cost of reproducing the main line of the Union Pacific Railway System — Omaha to Ogden (1,038.9 miles):

Right of way	$ 188,000
Grading, bridging and culverts	7,672,720
Ties	1,809,575
Main track, rails, etc	5,062,443
Side tracks, rails, etc	1,322,670
Track laying and surfacing	623,340
Fencing	208,000
Snow fences	250,000
Snow sheds	124,920
Buildings	1,558,350
Telegraph line	129,862
Locomotives, passenger equipment and freight equipment	4,155,620
Fixed tools, stationary power and other tools	519,500
Engineering and contingencies, ten per cent	2,362,500
The impact and adaptation	1,870,000
	$27,857,500

Cost per mile, $26,814.

And ask you to state whether, from your knowledge of that line of railway and the cost of labor, material, equipment, etc., such itemized statement represents in your judgment what would then be a fair and reasonable value or cost of such work?

Objection by Mr. Woolworth: I object to this on the ground that the paper referred to is not proved to be a report of Mr. Morgan; and, furthermore, that that report was of the condition of the road at its date and not at the present time.

A. I would think that this is a fair estimate.

Q. Calling your attention, Mr. House, to the items: Cost per mile, $26,814, do you understand that to mean his calculation for the cost per mile for the entire length of 1,038.9 miles?

Objected to by Mr. Woolworth on the ground that it does it does not appear that the witness has any present knowledge of the value of the road or of the road at the date of Mr. Morgan's report; and, furthermore, that the inquiry does not cover the whole cost or the present value of the property. The paper itself will show what is meant, and the understanding of the witness as to what is meant is of no consequence whatever.

A. Yes; the cost per mile, $26,814.00, is intended to cover the entire distance, 1,038.9 miles.

Q. What I want you state is whether that distance and that cost includes the entire length of the line from Omaha to Council Bluffs and the bridge over the Missouri River?

A. I think it does.

Q. Is there any way of arriving at the 1,038.9 miles, without including the bridge of the line to Council Bluffs?

A. No, sir; there is no way of arriving at it without

including that, because it so states the mileage as stated in the early part of his report.

Q. Now, how much does Mr. Morgan estimate for the cost of the bridge alone?

Mr. Woolworth objects to that, as Mr. Morgan's report will show for itself; the statement of the witness is secondary evidence.

A. $1,000,000.

Q. Thence, in estimating the cost of reproducing the main line from Omaha west you would deduct, would you not, from the total as found in the foregoing quotation of $27,857,500, one million dollars, or in other words, about $1,000 per mile?

A. Yes, sir.

Q. That, then, would reduce the cost of reproducing the line of the Union Pacific from Omaha west to $25,800 per mile?

A. Yes, sir.

Q. Now, at that time, were you familiar or sufficiently familiar with the cost of railway construction, labor and material, the different qualities used, to speak upon this point as to the reasonableness of the foregoing estimate in 1887 and 1888?

A. This was in 1887 and I was in active construction in 1883 and knowing the value of material then, and it has been constantly decreasing in price; I think I am.

Q. I desire now to call your attention to another statement found on the same page of the public document above

mentioned, being a part of the report of Mr. Morgan, which is as follows:

* * * * *

TERMINAL PROPERTIES AND THEIR FACILITIES.

Omaha	$10,000,000	
Ogden	300,000—	$10,300,000
Total		$38,157,500

Cost per mile, $36,728.

* * * * *

and ask you to state if you had a general knowledge of the terminal properties and facilities of the Union Pacific road at Omaha in 1887 and 1888?

A. Yes; I had.

Q. Have you been familiar with those properties from the time of the inception of the road down to the present time?

A. I have.

Q. Is it not a fact that the Union Pacific Railway Company has no passenger depot at Omaha?

A. I believe it is.

Q. Is it not true that for years it has been running its trains on grounds covered only with railway tracks and open to the weather and the heavens on all other sides?

A. They have a temporary wooden building, but they have been landing their people out of doors.

Q. The wooden building you refer to is simply a one story frame structure standing at the south side of the tracks of the Union Pacific and B. & M. lines, is it not?

A. Yes, sir.

Q. A structure used in common by the two lines of road, is it not?

A. Yes, sir.

Q. And not worth to exceed $400 or $500, is it?

A. Not worth a great deal.

Q. As a railway man you would not call that a depot, would you?

A. Hardly.

Q. Now, as to the freight houses. Has the Union Pacific any extensive freight houses or freight buildings at Omaha?

A. They have a fair freight building now at Omaha.

Q. Their other terminals, then, consist of side tracks and other machine shops and car shops and things incidental thereto?

A. Yes, sir.

Q. And they were about the same in 1887 and 1888 as they are now, except perhaps a little more in decay now?

A. At the time this report was made they had no freight depot except a temporary wooden building.

Q. By that do you mean at the time Mr. Morgan's report was made?

A. Yes, sir.

Q. What would you say, Mr. House, about the value of their terminals at the time Mr. Morgan made his report; what would you say of his estimate of $10,000,000 for the total value of the terminals at Omaha?

A. It is very excessive and can only be accounted for from the fact that at the time the report was made there was a large demand for real estate, and it is based principally upon real estate.

Q. Then you mean it was based on real estate boom then existing?

A. The value was real estate values.

Q. At that time was there was a special or particular real estate boom in Omaha?

A. There was. It was on a decline but there was an excessive valution of property.

Q. Is it not true that nearly all of the lands owned by the Union Pac fic Company for terminal facilities were lands given it by the City of Omaha, for which it paid no money whatsoever?

Objected to by Mr. Woolworth as immaterial and irrelevant.

A. That is the fact; it was obtained by donation.

Q. And these lands principally lie on the sand bottom along by the Missouri River, do they not?

A. Yes, sir.

Q. So that if the lines of track of the railway should be taken up from the river front these lands would have no particular or special value for other purposes; in other words, if it were not for the railway lines in that vicinity that land would not be occupied for either dwellings or business houses to any extent, would it?

Objected to by Mr. Woolworth, as the witness cannot tell what it would be occupied for.

A. I look upon the value of those lands down there as largely due to the tracks of the Union Pacific Railroad; if they were taken away it would be of very little account for any purpose.

Q. Going back to the estimate of Mr. Morgan per mile for the construction of the entire line from Omaha to Ogden, let me ask you what would be the relative difference in the cost of construction of that part of the road from Omaha west to the west line of the state, compared with the cost of construction of that part of the line from Nebraska to Ogden?

A. There is a large part of the line of the Union Pacific road that can be constructed as cheaply as the line in the valley of the Platte River, and I would consider that the cost of construction, of grading and bridging, should not exceed $10,000 a mile from the Nebraska state line to Ogden, I mean the west line of the state.

Q. Perhaps you are not getting at the understanding of my question. I want to know how much more per mile, on an average, it would cost to construct the road through Wyoming to Ogden, Utah, than it would cost to construct the line of road through the State of Nebraska?

A. I think about $35,000 per mile probably would cover the cost of construction from the west state line to Ogden, $33,000 or $35,000 a mile.

Q. That would reduce the cost of construction through

Nebraska, according to Mr. Morgan's estimate, to about what sum per mile?

A. That would make the cost of the road from here to the 100th meridian about $16,000 a mile.

Q. You may explain now why it is more expensive to construct a road through the territory west of Nebraska than through the state of Nebraska?

A. It crosses the montain ranges, the Black Hills and the Medicine Bow Mountains, the divide of the continent and the Wasatch Range.

Q. You may give, Mr. House, in general terms, a statement of the reason why the cost of construction in itself was less than it was in the '60's and in answering the same question you may also explain why the construction of railways in Nebraska would be cheaper now than it has been at any time at any previous time, if such be the fact?

A. The labor is more, the facilities for moving material is greater, the new improvements of scrapers, both horse scrapers and wheel scrapers, and what is known now as road excavators, has reduced the cost of excavation very materially, the facilities for transportation has been very much reduced—the cost of transportation.

Q. You do not mean the facilities for transportation have been reduced?

A. They have been increased; the transportation facilities of the country have been largely increased.

Q. I draw your attention to the supplies of iron and ties and equipment, and ask you to state what reduction there is relating to these things?

A. There has been a very large reduction in the cost of iron, in rails; it has been reduced from $130 per ton for iron rails to $30 per ton now for steel rails; and locomotives for $16,000 to $18,000 apiece have been reduced to $8,500 for the same class of engines, and nearly everything that goes into the construction of a railroad has been very materially reduced in price.

Q. Do you know the actual cost of the construction of the Missouri Pacific line in Nebraska?

A. Yes, sir.

Q. Have you prepared a statement showing the actual cost of construction per single mile of the Missouri Pacific constructed under your administration as its chief engineer and superintendent?

A. Yes, sir.

Q. Will you produce that statement to be attached to your testimony as Defendant's Exhibit No. 2?

The witness produces the statement.

Defendant offers Defendant's Exhibit No. 2 in evidence.

Objected to by Mr. Woolworth as incompetent and irrelevant.

The following is a copy of Defendant's Exhibit No. 2:

Defendants' Exhibit "2."

OMAHA, December 22d, 1893.

MISSOURI PACIFIC RAILWAY OF KANSAS AND NEBRASKA.

Actual cost of building one mile of single track rail-

road from the Union Pacific Railway junction in Nebraska, to the Central Branch Railway junction in Kansas, 1881-2. Distance, main line, 147.53 miles; sidetracks, 9.5 miles, as follows, viz.:

QUANTITIES.	DESCRIPTION.	AMOUNT.	TOTAL AMOUNT.
1 Mile.	Right-of-way	$ 950.00	
"	Grading	3,760.00	
"	Bridging	1,600.00	
"	Cross ties	1,560.00	
"	Steel rails	6,150.00	
"	Spikes	137.00	
"	Splices and bolts	291.00	
"	Frogs and switches complete	88.00	
"	Track laying and surfacing	700.00	
"	Section and tool houses, tools, hand cars, etc.	80.00	
"	Station houses and stock yards	400.00	
"	Stations—Fuel and water	270.00	
"	Road crossings and cattle guards	65.00	
"	Telegraph	100.00	
"	Engineering	305.00	
"	Transportation, distributing material	120.00	$16,576.00
	There was added as follows:		
"	Ballast 3,083.00	21.00	
"	June rolls, "extra surfacing" 15,000.00	102.00	
"	Foreman and watch houses 15,165.00	104.00	
"	Fencing 1,231.00	8.00	
"	Maintenance of way and incidentals, etc.	43.60	278.60
	Total cost of 1 mile		$16,854.60

SUMMARY.

Total cost 147.53 miles of main line and 9.5 siding $2,486,559.82

Said exhibit is endorsed as follows:

"No. 4. Memoranda of the cost of constructing 1 mile of single track railroad and telegraph line for the Missouri Pacific Railway of Kansas and Nebraska, 1881-2."

Q. I observe the estimate of the Missouri Pacific marked Defendant's Exhibit No. 2, does not include equipment?

A. No, sir.

Q. Have you prepared an estimate of the cost of construction per single mile of road, taking into account the present prices of labor, cost of material and supplies, including equipment?

A. Yes, sir.

The witness now corrects the statement made in a previous answer that the labor is more, by saying that he meant the cost of labor is less.

Q. Do you deem yourself qualified, from personal knowledge and information, to determine the cost of the construction of line of road within Nebraska at the time when the statement was prepared by you mentioned in your last previous answer?

A. Yes, sir.

Q. Will you produce that estimate, to be offered in evidence as Defendant's Exhibit No. 3?

A. Yes, sir.

Counsel for the State Board of Transportation

offers in evidence the statement marked "Defendant's Exhibit No. 3."

Objected to by Mr. Woolworth as immaterial and irrelevant.

The following is a copy of said Defendant's Exhibit No. 3:

Defendant's Exhibit "3."

OMAHA, December 30, 1893.

Approximate estimate of the cost of constructing 1 mile of single track railroad in the state of Nebraska, based on the present price of labor and for materials at quotations and contract prices, F. O. B. at Missouri River points as follows, viz.:

DESCRIPTION.	PRICES.	AMOUNT.	TOTAL AMT.
12 1-12 acres, right-of-way and land damages	$50	$606.00	
8-10 acres, terminals	1,200	960.00	
16,000 cubic yards earth excavation	14c	2,240.00	
4 cubic yards rock faced bridge masonry	12	48.00	
3 lineal feet triangular truss bridging	45	135.00	
600 lineal feet white oak piling	45c	270.00	
18,000 feet B. M. timber, trestle bridges	30	540.00	
1,000 lbs. wrought iron	4c	40.00	
500 lbs. cast iron	2½c	12.50	
2,500 feet B. M. timber, road crossings and cattle guards	30	75.00	
2,640 standard white oak ties	58c	1,531.20	
94.3 tons gro. steel rails "60 lbs."	31	2,923.30	
7.04 tons angle bars "24 lbs."	34	239.36	
0.57 tons bolts "Hex Nuts"	54	30.78	
3.00 tons spikes "5½x9-16"	42	126.00	

Description.	Prices.	Amount.	Total Amt.
1,410 nut locks, per M	$8	$11.28	
Frog and split switch "complete".	60	30.00	
Track laying and surfacing	600	600.00	
Section and tool houses, tools, hand car, etc	750	125.00	
Station houses, "Pass. & Frt.," stock yards	2,625	375.00	
Coal houses, wells, tanks, windmills, etc	2,500	250.00	
Distributing material, transportation, etc		100.00	
Engineering		563.42	
			$11,831.84
EQUIPMENTS.			
Locomotion, "30 tons"	$8,500	850.00	
Passenger cars, "Standard 1st class"	4,300	537.50	
Passenger cars, Standard 2nd class	3,500	437.50	
Baggage and express cars, standard	2,800	186.67	
Mail cars, standard	2,800	186.68	
Box cars, 25 tons, standard	390	1,170.00	
Stock cars, standard	330	495.00	
Platform and coal cars, 25 tons, standard	270	810.00	
Caboose, standard	825	41.25	
Buildings, machinery, etc., as follows, viz: Round houses, machine shop, car shop, blacksmith shop, paint shop, boiler shop, foundry, office and store house, etc. All furnished with power, machinery, tools, etc., for the ordinary repair of locomotives and cars	75,000	750.00	
Superintendence and incidentals, 5%		863.56	
			$6,328.16
Total cost 1 mile			$18,160.00
Total cost of 100 miles			$1,816,000.00

Said exhibit is endorsed on the back, in words and figures following, to wit:

"Approximate Estimate of the Cost of Building 1 Mile of Single track Railroad in the State of Nebraska. December 30th, 1893."

Q. Have you in the last exhibit referred to added the equipment?

A. Yes, sir.

Q. I observe that therein you fix the cost of a single mile of railway including equipment at $18,160. I will ask you to state whether according to your best judgment and your means of information that is a fair and reasonable value of such cost of construction and equipment?

A. Yes, it is.

Q. With reference to the equipment, have you therein taken into account the amount of equipment apportioned to a single mile of road under the construction contracts?

Mr. Woolworth objects to it as some roads call for a great deal more equipment than others and cannot tell from this whether it answers the necessities of the Union Pacific or not.

A. Yes, I have made due allowance of the amount of equipment which would be required for a single line of road on a line of 100 miles.

Q. Have you in that estimate included the matter of right-of-way?

A. Yes, sir.

Q. You may state how liberal you have been in your estimate of the cost of right-of-way?

A. I have estimated the right-of-way in acres, which is equivalent to 100 feet of right-of-way, 50 feet on each side of the center line, and have fixed the value at $50 per acre. I have estimated for depot purposes or terminals at a valuation of $1,200 per acre, giving to each mile of road about eight-tenths of an acre; in equipment I have given for each mile of road one-tenth of a locomotive, or in other words ten miles to one locomotive. I am not able now to fix the passenger cars and baggage cars and mail and freight and cattle cars without referring to the estimates.

Q. Getting our minds back to the question of the right-of-way, what have you to say as to whether or not $50 an acre is equal to or more than the value of real estate throughout Nebraska, or, in other words, what is the general market value of real estate throughout Nebraska per acre?

A. So far as my knowledge goes its average value would be about $25.

Q. Then you have doubled the market value of the land in your estimate?

A. Yes, sir.

Q. Now, Mr. House, according to your estimate there, do you mean to say that in your opinion the main line of the Union Pacific through Nebraska could be reproduced or duplicated for the sum of $18,160 per mile?

A. I think it could.

Q. That is including the right-of-way and equipment?

A. Yes, sir.

Q. What would you say as to the line of the B. & M. in Nebraska. Could that likewise be duplicated or reproduced for the same sum of money per mile?

A. I think so.

Q. And would that apply to the other lines of railway extending through the State of Nebraska, to wit: the Rock Island, the Fremont & Elkhorn, and the Northwestern line through Fremont down towards Lincoln?

A. I think so; yes, sir.

Q. And likewise including the Omaha & Republican Valley?

A. I think all the lines in the state can be built for that price. The estimate I have made is based on a topography of country that is much rougher than that; that is over the Missouri Pacific.

Q. By that you mean the lines of the Missouri Pacific go over a more rugged country than that through which the other lines of railway through the state generally pass?

A. Yes, sir.

CROSS-EXAMINATION.

By Mr. Woolworth:

Q. What do you think is the per cent. of reduction in railroad construction since 1889?

A. In grading and bridging, about—

Q. I just ask you generally, not going into detail?

A. It will run very near forty per cent.

Q. Is it not a good deal more than that?

A. Some articles it is more; some it is not.

Q. Iron was $130 a ton?

A. Laid down here.

Q. Where was the iron bought when it was laid down on the road when it was first built?

A. Iron was purchased at different localities, Bethlehem; some iron was from Bethlehem.

Q. In what state?

A. Pennsylvania; there was iron purchased at Johnstown; that is in Pennylvania. From the Cambria Iron Works. I cannot tell where it was all purchased; it was purchased at different localities.

Q. It was all American iron, wasn't it?

A. I am not able to answer that question positively; I think it was all American iron. I think that was one of the conditions, that it should be made of American iron.

Q. Can you state more particularly where the iron came from?

A. That was about the only places where iron was manufactured at that time; pretty much all of it was made there in those different localities in Pennsylvania.

Q. How was it brought to Omaha?

A. It was brought by rail to St. Joe and from St. Joe to Omaha by steamboat.

Q. All of it?

A. No, sir.

Q. What other route did it come by?

A. After the Chicago & Northwestern road was constructed it came by the Chicago & Northwestern.

Q. Most of it came by what is now the Chicago & Northwestern, did it not?

A. The Chicago & Northwestern was opened for Omaha business the spring of 1867; the material that was received before that time came by the river.

Q. Do you not remember that almost at the very beginning of the construction, Blair entered into a contract for putting his road through to Omaha so as to get the supplies, iron and other supplies, across the road which is now a part of the Northwestern?

A. I know that the Union Pacific people paid to Blair or to the Northwestern system, a certain sum of money, but how much I do not know, and they made a great effort to have them build their road to Omaha; I know it was to such an extent, as I made the location myself to Valley from Council Bluffs, to facilitate them.

Q. How much iron did Dey lay while he was in charge of the work?

A. Not a rail.

Q. How many ties did he get out? Or did he get a hundred ready to lay?

A. Well, not a great many; they were just getting their tie camp organized about the time he resigned.

Q. What tie camp do you refer to?

A. I refer to the Sprague tie camp at Rockford, in this state.

Q. Was Sprague the contractor for supplying the ties?

A. No, sir.

Q. Who was?

A. There was no contractor.

Q. Who got out the ties?

A. Mr. Sprague was sent here by Dr. Durant and the ties were being manufactured and paid for just the same as their grading was done and paid for, under Mr. Dey's management; letting contracts and paying upon estimates; that is the grading, but in this tie work Mr. Sprague was employed by the month.

Q. Employed by whom?

A. Employed by the Union Pacific Railway Company.

Q. How many ties did he get out working by the month for the Union Pacific?

A. The majority of ties they laid the first forty miles came from Sprague; they were manufactured by him.

Q. Now tell how Sprague got out the ties for the first forty miles? On what basis?

A. He was working by the month and his men were paid off from his pay rolls; paid by the company direct; there was a contract that was afterward let to Mr. Moore. I guess Sprague did not furnish all the ties for the forty miles; it was Mr. Moore, at Decatur, who furnished another large quantity of ties.

Q. Moore furnished quite a large amount of ties for the first forty miles, did he?

A. No, sir; I think that Mr. Sprague, his ties were

mostly hard wood, those from Sprague's camp, and they were used on curves of the road, and Moore's ties went into the valley of the Platte, and I think Sprague furnished about 75,000 ties at Rockford.

Q. Whose land did he supply those ties from?

A. Land purchased from J. M. Parker.

Q. Purchased by whom?

A. Purchased by Mr. Dey.

Q. Who did Dey buy them for; he didn't buy them for himself, did he?

A. He bought them for the Union Pacific Railway Co.

Q. That is the Union Pacifie was the purchaser of the land?

A. As I considered it.

Q. The title was taken to the Union Pacific, was it not?

A. That is my recollection; I never examined the titles.

Q. And all the hard wood ties Sprague furnished came from land the Union Pacific bought through Dey; is not that so?

A. That is as I recollect it; yes, sir.

Q. What did the company pay Moore per tie?

A. The company purchased the land from which Moore's ties were cut; they were the first purchasers of that land. I don't know but that it afterwards was sold to Moore.

Q. Do you mean to say that the Union Pacific bought

the land that Moore cut the ties from and Moore produced the ties on the same basis that Sprague did?

A. No; there was a contract—

Q. Just tell us how that was?

A. I will do the best I can.

Q. How much did the Sprague ties cost the company per tie?

A. There were various estimates made, from 50 to 75 cents apiece.

Q. And those two men furnished all the ties, did they, for the first forty miles?

A. I do not recollect any one else now.

Q. Now, Mr. House, will you swear that the ties for the first forty miles were obtained by the company at an expense of less than 50 cents a tie?

A. At Omaha, you mean.

Q. Yes, at Omaha.

A. Oh, no.

Q. How much per tie did they cost at Omaha?

A. I could not tell positively what they did cost at Omaha, I did not keep books of that expenditure; I do not know.

Q. When were the first ties laid?

A. The first ties were laid in July, 1865.

Q. That began at the initial point in section 8, did it not?

A. The track began down here at Farnam street, or at

the river; we commenced laying our track from Farnam street.

Q. Yes, I know you did; but you built the road up to section 8, didn't you?

A. After the road was built out into valley.

Q. When was the road built from the initial point in section 8, to Farnam street in Omaha?

A. It was built after the road was laid to the valley.

Q. When was that?

A. In the fall of 1865, or rather in early January, 1866.

Q. That first forty miles of road was built by the Union Pacific direct, was it not, and not through any contractor?

A. Oh, no; the Hoxie contract commenced, you know, in 1864, and everything that was done on that was done under contract.

Q. This memorandum from which you have been testifying of the cost of the road, was made up from memoranda that you have in a pass book, is that so?

A. Yes, sir.

Q. And that is the cost of building the road on the Dey line, or on the Mud Creek line?

A. That is the cost of building the road on the Dey line.

Q. Then your estimate that you speak of was of work on the Dey line, was it?

A. What estimate do you mean?

Q. This estimate was made up on the Dey line?

A. That was made up on the Dey line.

Q. When were the items put down in the pass book from which you have made up the estimate that is introduced in evidence?

A. That was done in 1875.

Q. Then it was not done at the time the work was being performed or before the work was done?

A. No, sir.

Q. Those items were inserted in the book then a period of ten years afterwards?

A. Ten years afterwards.

Q. What is the cost of steel rails now?

A. I think the quotations now are $30, $30 or $32 at Omaha.

Q. You do not know what it cost to bring the iron from Pennsylvania here, do you?

A. I do not.

Q. Have any idea on that subject?

A. No, sir.

Q. How many yards of earth were moved from Farnam street to the valley of Mud Creek in the original construction of the line?

A. I have the information that I can give that to you exact, if you want it; I could not from memory.

Q. What did it cost a yard?

A. The cost per yard was between 25 and 30 cents, as I recollect it now.

Q. How was that work done; by contractors or by the company itself?

A. The early work was done here by contractors, and the work on the Mud Creek line was done by the company.

Q. That is, after you got down to the Mud Creek line the company did the work itself, is that right?

A. No, there was no contract let; only the contract to the contractors for building the first 100 miles of the road.

Q. That is to say, after the grading got to Mud Creek, or to the summit beyond Omaha, the company itself hired the men to do the work without letting a contract to any individual, is not that so?

A. Yes, sir.

Q. How far did the company carry the work which it did itself and not through the contractor?

A. To the summit, three miles south of Omaha.

Q. Didn't the company let the contract for grading to Williams, from Farnam street to the summit, or beyond?

A. They let it to Williams to the summit.

Q. That is the contractor that did that work, did he not?

A. Certainly.

Q. Then beyond that the company did the work, did it not, without letting it to a contractor?

A. No, sir.

Q. Who was the contractor beyond the summit?

A. Hoxie; it was under the Hoxie contract.

Q. Was the Hoxie contract in force when the work was done beyond the summit?

A. Yes, sir.

Q. Is it not a fact that the work was done beyond the summit by the company for a considerable distance, and the Hoxie contract made to extend over that work by its terms?

A. No, sir.

Q. Who did the grading through the Griffin farm?

A. The company.

Q. That work was all abandoned, was it not?

A. Yes, sir.

Q. Do you know what price per tie the Hoxie contract paid?

A. I do not, only as it appears in that estimate, 60 cents.

Q. Did not it pay a dollar for a large part of those ties; did not that contract pay over a dollar per tie for the ties it used after it began the work?

A. There may have been some instances where a dollar was paid for hardwood ties at that time, but they were only a few.

Q. Were the soft wood ties put through any process?

A. Some of them were; yes, sir.

Q. What proportion of them?

A. I do not think there was a tenth part of the ties that went through the burnitizer, that laid the first forty miles.

Q. Who put the ties through the burnitizer?

A. L. S. Bent.

Q. Did he do it through a contract let to him, or did he do it for the company?

A. I am not able to say.

Q. What did it cost to put those ties through the burnitizer?

A. I am not able to answer that question.

Q. You say the machine shop cost how much money?

A. It is put down here at $36,000.

Q. How much did it cost actually?

A. I do not know; I can only estimate it as to the value of material.

Q. How large a building was it?

A. It was a two-story building, or rather its walls were high enough for a story and a half; a two-story building; it might be considered a story and a half building, and in size it was about 50 feet by 125; it is possible it might have been 75 feet wide and 150 feet long, but I think it certainly is about 50 by 125.

Q. That is the machine shop now, is it not?

A. Yes, sir.

Q. Has anything been added to it?

A. Why, I think so, yes, sir; nothing has been added to the length of it, but there has been to the width of it. The car shop used to stand there and it has been removed and a part of it has been converted into the machine shop; the old car shop burned down.

Q. That machine shop is to the extent of the machine
op accommodation of the company now?

A. With the old car shop combined with it.

Q. And the old car shop, or original car shop has
en added, has it, to the machine shop?

A. Yes, sir.

Q. And that is all the machine shop they have got
wn there now, is it not?

A. I believe so.

Q. Have they got any car shop there now?

A. Yes, sir; not on that location.

Q. How far from that location?

A. In a northwesterly direction, I should say, about
o feet.

Q. Now all these buildings that you spoke of have
en very greatly enlarged, have they not; the blacksmith
op and engine house and tank and car shop?

A. The car shop has been very much enlarged; the
lacksmith shop has been very much enlarged; the tank is
s it was, that is the capacity of it.

Q. They have no other tanks but what was built at the
ry beginning of the work, have they?

A. I do not know; I do not know of any.

Q. What do you say about the engine house?

A. From a five stall house it has been enlarged to
venty.

Q. Is it not a fact that the shops at and about the

place where the original machine shop was built have been very greatly enlarged.

A. Oh, yes, over the first original ones.

Q. How much and what proportion, I mean all of the plant as it now is?

A. Well, that would be pretty hard to answer; I should say over those that were first built it has been enlarged fully 100 per cent.

Q. Do you know how much the company has expended in the construction and reconstruction of the telegraph line?

A. No, sir.

Q. You haven't any idea about that, have you?

A. No, sir.

Q. And you haven't any idea, have you, of the value of the telegraph property of the company?

A. I do not know how many lines they have.

By Mr. Webster:

Q. What do you mean by lines?

A. How many wires.

By Mr. Woolworth:

Q. How much do you allow for the telegraph property in fixing the value of the road?

A. In my estimate for the value I have allowed one line of one wire.

Q. Now, if it should turn out that the company used eight wires from here to North Platte, you would be off a great ways in that, would you not?

A. Off the difference in the cost of wire.

Q. Is that the only particular in which the present line differs from the line you estimate the value of?

A. I estimated the line with its poles and one cross bar.

Q. And didn't make any estimate for the property as it now stands?

A. No, sir; and I estimated that at the cost of what a mile of telegraph costs to build from here to Atchison; it was on that basis; I used the same price.

Q. Don't you know that the telegraph line from here west to Green River cost nearly three times as much as it did on the Missouri Pacific?

A. I presume likely enough it did.

Q. Then that would not be a fair estimate, would it, taking the Missouri Pacific line from here to Atchison as a basis?

A. This basis I have made is on a hundred miles of road in Nebraska.

Q. If the line through Nebraska cost three times as much, that estimate was not a very fair one, was it?

A. Not to that part of it; no, sir.

Q. I understood you to say that the road is a single track road from the depot to Ogden, except from here to Gilmore, where it is a double track road. Did I understand you correctly?

A. Yes; that is as I know it.

Q. Do you know how many tracks there are between the depot in Omaha and Gilmore?

A. I know there is a double track from South Omaha to Gilmore; the tracks from here to South Omaha, how many there are, I do not know.

Q. Then you did not take that into account, did you, in making your estimate?

A. No, sir; I estimated it a single track road.

Q. Did you make any allowance for sidings?

A. Yes, sir.

Q. Well, how much siding did you allow for?

A. I do not know as I could tell off hand; the estimate that I made of sidings was one mile of siding to fifteen miles of roadbed.

Q. Do you know how much siding there is on the road from here to Ogden?

A. I do not.

Q. Then in that particular your estimate is only a guess, is it not?

A. So far as the Union Pacific is concerned; I am estimating what I would consider the fair cost of one mile of road in Nebraska.

Q. Well, I am talking about the cost of the Union Pacific and you do not make any allowance in fixing the cost of the Union Pacific for sidings, do you?

A. My impression is it was one-sixth on the main line; in making this calculation with regard to fixing the values that I have had in my mind all the while.

Q. Then you mean to say that you included in your

estimate of the cost of the Union Pacific one-sixth of 1,036 miles for sidings. Is that so?

A. No; I don't want to have it put in that way.

Q. Well, won't you please to explain just what you do mean on that subject; I want to know how much you allow for sidings in making up your estimate of the Union Pacific road from here to Ogden?

A. Six per cent.

Q. Then if that falls very outrageously short of the amount of sidings, you are off on that too, are you not?

A. Oh, yes.

Q. Where were the engines bought that were bought at first and which you have mentioned in your estimate?

A. I could not answer.

Q. What were paid for them to the manufacturer?

A. I could not answer that.

Q. Or to any person from whom the company or the contractor originally bought them?

A. I could not answer that.

Q. What did you say the market price of such engines were at that time, in 1865 and 1866?

A. To the best of my recollection the quotation prices were what I used, $16,000 to $18,000 a piece.

Q. Do you give those figures from your recollection or have you refreshed it by examining the price list of that time?

A. I have not seen a price list of that time at all, it is from memory altogether.

Q. That is true, too, of all the rest of the equipment, the value of which you have stated, is it not?

A. Yes, sir.

Q. If your recollection is defective, your estimate on those matters is off, is it not?

A. Yes, sir.

Q. Who is the Mr. Morgan you have spoken of as the author of the report?

A. I only know him as I have seen in his report that he was the author of it; he was an engineer employed by the government to make an examination and made a report.

Q. When?

A. This report was made in 1887.

Q. When did he make the examination?

A. Just before he made the report, I suppose.

Q. He was the engineer in aid of the commission which was known as the Patterson commission, was he not?

A. Robert E. Patterson of Pennsylvania was chairman.

Q. He is a man of very high reputation as an engineer, is he not?

A. Yes, sir.

Q. Do you know how extensive his examination was of the property?

A. I do not.

Q. You would take it for granted, would you not, that his estimates were fair and reasonable?

A. I have said so; yes, sir, as to the construction of the road.

Q. Well, is his competency to speak of everything connected with the road as great as that of any other engineer?

A. I suppose so; yes, sir.

Adjourned until Saturday, February 24, 1894, at 10 o'clock A. M.

OMAHA, Saturday, February 24, 10 A. M.

The further taking of testimony is resumed at the above time and place, as follows:

CONTINUATION OF CROSS-EXAMINATION OF THE WITNESS, MR. HOUSE.

By Mr. Woolworth:

Q. I understand you, Mr. House, that in estimating the cost, or value of the Union Pacific property at this time, you take a single track road, such as the Missouri Pacific, in this state, which you say you built, as your basis?

A. Yes, sir.

Q. How wide a right-of-way does that call for?

A. That calls for 100 feet.

Q. And how wide is the right-of-way of the Union Pacific?

A. It is through the government domain, 200 feet, through Douglas county, where the lands in the majority of cases were owned by private parties it was 100 feet.

Q. You think that was all the width of it in this county, do you?

A. No; there were instances, of course, where it was 200 feet in width, that is where parties donated the right-of-way they donated 200 feet in width, but in lands acquired by condemnation proceedings or by purchase outright from individual owners, it was 100 feet.

Q. Did you build the Belt Line?

A. No, sir; I did not.

Q. Who was the engineer of the Belt Line?

A. Why, the work was located by Rust, that is, the latter location. I made the first surveys for building the line, and did the construction and grading as far as the summit at the Poor Farm, but the work, I believe, was under the immediate charge of Mr. W. L. Adams.

Q. Do you know what the right-of-way of the Belt Line cost from Webster Street to South Omaha?

A. I do not, sir.

Q. Do you know what the right-of-way cost the Burlington from the depot in Omaha to South Omaha, on what is known as the Ashland cut-off?

A. I do not, sir.

Q. Do you know what the right-of-way cost the Burlington from South Omaha to Ashland, where it joined with its Plattsmouth line?

A. I do not.

Q. Supposing it should turn out that between 1869 and the present time the Union Pacific expended in developing its property on the line over $13,000,000.00, would that

have any influence on your mind in determining the value of the property at this time?

A. Of course, if $13,000,000.00 had been expended on the property of the Union Pacific from that time to this, it has increased its value in proportion to that amount expended; that would be my judgment.

Q. Do you know what the Missouri Pacific paid for its terminals in Omaha?

A. I do not, sir.

Q. Do you know what the Northwestern paid?

A. I do not.

Q. Do you know what the Burlington paid?

A. I do not.

Q. The Union Pacific did build a depot here at one time, did not it?

A. Yes, sir.

Q. When was that built?

A. The construction of that depot was commenced, I think, in 1870 or 1871, that is my best recollection.

Q. When was it taken down?

A. Four years ago, is it not? Four years ago, I think, somewhere about that time.

Q. That was taken down with a view of reconstructing another depot on the same ground, was it not?

A. Yes, in the immediate vicinity.

Q. I do not mean exactly the same site, but on the same plat?

A. On the same depot grounds, yes, sir.

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Q. Do you know what the new depot was estimated to cost?

A. No; I do not.

Q. The work on that depot was carried on until a controversy sprang up between the city or citizens of the city and the railroad company about it, was it not?

A. Yes, sir; so I understand through the press, I do not know anything beyond that.

Q. That depot was carried on until the structure reached the second story, was it not?

A. Yes, sir.

Q. Do you know how much was expended in the work?

A. I do not.

Q. Can you state the aggregate, either in lots or acres, of the grounds owned by the Union Pacific in Omaha, for its shops and terminals?

A. I made, a short time ago, a rough estimate of the grounds, and it was, as I recollect, between forty and fifty acres.

Q. Some of that lies on the river bottom, and some lies on the bench on which the city, or a large part of it, is built?

A. Yes, sir; some of it is on the plateau, that is south of the south creek.

Q. How much is on the bottom? And how much on the plateau?

A. I think there is about seventy-five per cent. of it on the bottom.

Q. You do not think that land on the bottom is worth much except for the tracks that are laid on it, do you?

A. Oh, that, and on account of the manufacturing business being there, manufacturers doing business on it on account of the railroads; it is valuable for that purpose; without the road it would not have but very little value.

Q. That is true of the City of Omaha and everything else that is here; if we didn't have the Union Pacific Railroad, or some other road, it would not amount to much?

A. If it were not for the railroads of the country I don't think the country would amount to very much, anyway.

Q. Did you mean to say, the other day, that you did not think the lots on the bottom were worth much except for the value that was added to them by the tracks there, or simply that the land would not be worth much if there was no railroad there; your expression on that subject was, I thought, perhaps indefinite. I would like to know what you meant?

A. I did not intend to be indefinite with reference to it. I looked upon those grounds down there as having very little value outside of what the railroad had put there.

Q. Then their value at the present time consists altogether of structures and tracks the railroads have put there?

A. That and other things in connection with it.

Q. How would you say about the land on the plateau?

A. The land on the plateau was occupied by dwellings, in a measure, when the ground was first taken; that is I mean now the south depot, the present south depot. The depot grounds at the time they were selected, at that time they were in the residence portion of that part of the city.

Q. The residences that were on that land did not amount to much?

A. Not a great deal; of course there were parties had purchased there. I know Mr. Evans purchased lots there, and Mr. Rodgers lived there.

Q. Mr. Rodgers lived beyond there?

A. I am speaking of the whole locality. Mr. Augustus Kountze was living on the side hill there, and I talked at one time quite seriously about buying some property up there myself for a residence.

Q. On the lands which were secured for the depot grounds there were not any dwellings of particular value?

A. Not a great many that had very much value to them; they were all frame structures, but the number of them I would not be able to give, I know there were some there, because they were moved away from there. I recollect that very distinctly, there were some dwellings on that very ground.

Q. What you said about the bottom lands is also true of the lands on the plateau, do I understand you to say that with respect to their value?

A. Oh, the lands on the plateau, of course have been governed by the building of the railroads, the property of

Omaha has largely advanced by reason of these roads, if that is the inference you want, it is on account of the building of the roads.

Q. That is not exactly what I want to get at. What is the value of those lands where the depot grounds are, in your opinion, with all the railroad improvements and structures and tracks removed from it?

A. Oh, I do not know as I would be able to give that at all.

Q. Do you know how many acres there are of it?

A. The exact acreage I cannot tell, but I think it is about between twelve and fifteen acres; that is what it was originally, as I recollect, but that included a strip of ground that extended down in the direction of the B. & M. tracks, off southeasterly, quite a strip of ground there that went down into what was known as "train town," for the purpose of using it as standing room for cars.

Q. Did the Union Pacific sell or convey that property away or does it own it now?

A. I do not know that; I believe a portion of it went to the B. & M. railroad in their entrance into the Union Pacific depot.

Q. When was that?

A. I do not recollect that.

Q. Was that when the Union Pacific and Burlington entered into an arrangement for the building of a joint depot or long before?

A. No, sir, it was prior to that. I think it was about

the time of the entrance of the Southwestern Railroad, or about the time of the construction of the Omaha & Southwestern Railway; that was in 1870.

Q. The Southwestern Railroad now belongs to the Burlington, does it not?

A. Yes, sir.

Q. What was your estimate of the rolling stock per mile on the Union Pacific?

A. Which estimate do you mean, the estimate of Dey, or the Hoxie?

Q. Of the rolling stock, not the track—equipment?

A. I do not know that I made an estimate of the cost of building the Union Pacific, the equipment—I made no price on the equipment of building the Union Pacific now, unless you might take it under the head that I made an estimate of the cost of building a single mile of railroad in Nebraska.

Q. Then in your statement of the value of the road at this present time, you did not include equipment? You have made no estimate then of the cost of reproducing the Union Pacific in this state?

A. No, sir.

Q. Nor on the whole line?

A. No, sir.

Q. What was the date of the Hoxie contract?

A. It was in August, 1864.

Q. That antedated the laying of any rail, did it not?

A. Well, now, I am not quite clear about that. I

think it did not; my impression is, I was not here at the time, I was away out of the state, of the territory, but the track laying commenced about August 1st, 1864; it may be some little track was laid in July.

Q. Well, if there was, it was very light?

A. It was very light; I know I returned some time about the 8th or 9th of August from Iowa, and the track at that time was just above the crossing of Sixteenth street.

Q. That was a distance of less than two miles, was it not?

A. Oh, yes, a little over a mile.

Q. Did the Hoxie contract go back and cover the work done before that by the company?

A. I believe it did, yes, sir; because we were ordered from the New York office to take up the expenditures that had been made upon what was known as the Dey line, and other expenditures that were sent in there as moneys expended in New York, or Washington, that were made in a part of the Hoxie contract, that were charged up to the Hoxie contract, as I understand it.

Q. When you speak about the Dey line, you mean the line from the foot of Farnam street around to between Mason and Jones street, and so out west through the Griffin farm?

A. Yes, sir; the Dey line and the present line of the Union Pacific for a distance of three miles out of Omaha are common lines, and the Dey line then diverged to the west, while the present line of the Union Pacific road runs south-

easterly by the valley of the Papillion, the two lines intersecting west of Omaha about sixteen or eighteen miles.

Q. You include in your phrase, the Dey line, the location from the foot of Farnam street around to the Griffin farm, do you not?

A. Yes, sir.

Q. Not to, but into the Griffin farm?

A. Yes, sir.

Q. Do you remember what was the date of the Ames contract?

A. No, sir; I do not.

Q. Do you mean to say that the track laying did not begin until the first of 1865?

A. I shall have to correct all that, I made a mistake as to the dates. The date of track laying was in August, 1865; the Hoxie contract was in August, 1864. Now, the Ames contract, my impression is, was laid in 1866, it must have been some time in September; that is my recollection.

Q. And that began at what point?

A. As I recollect it, it began at a point that was west of the 100th Meridian, but dated back to include the work from the 100th Meridian.

Q. How much track had been laid west of the 100th Meridian at the date of the Ames contract?

A. Well, something over fifty miles, I do not know the exact amount, I think it was between fifty and eighty miles somewhere.

Q. Did the company build that fifty miles?

A. It was built under the Hoxie contract.

Q. Was it covered by the Hoxie contract?

A. I think not.

Q. What was the date of the Davis contract?

A. I do not remember.

Q. Do you remember where that contract began work?

A. I do not know exactly, I think the Davis contract built somewhere in the neighborhood of 130 odd miles of road, that is my impression, I am not quite clear about that though.

Q. Henry was the representative of the contractors under the Hoxie contract, was not he?

A. Yes, sir.

Q. What is the form of the order which he brought to Dey to change his estimate, was it in writing or by word of mouth?

A. It was verbal, as I recollect it.

Q. Do you know anything more about its coming from Durant than what Henry said?

A. No, and what was the general talk in the office between Mr. Dey and myself with reference to it. There was not any question but what it was authentic as coming from Durant.

Q. Did Dey have any written directions to that effect from Durant?

A. Not that I am aware of.

Q. What connection did Henry have with the work as the representative of the contractors?

A. His home was in Davenport, Iowa. He came here occasionally, I do not know that he was here more than half a dozen times while he was connected, from the time in 1864 up to the first of January, 1866; do not think he was here more than half a dozen times, if he was here that often.

Q. Well, did he take any active part in the construction of the road?

A. He was the authorized party from whom I received my instructions with reference to the work that was being done.

Q. You do not mean from the time you began the work, do you?

A. No, sir; I mean from the time the work was changed from the company to the contractors, and that was about September, somewhere about that time when the change was made, although Mr. Henry was not here until in November to make the change.

Q. Of what year?

A. 1864.

Q. Did you, on your direct examination, give an estimate of the value of the shops of the Union Pacific at the present time?

A. I believe I did; that is, I made an approximate valuation.

Q. Do you remember what it was?

A. In total, I do not.

Q. I will ask you this question, state what you think

is the value of the shops, separate from the ground on which they stand, at the present time?

A. I think it would run from $75,000 to $80,000.

Q. Does that include machinery in the shops?

A. No, sir.

Q. That is just barely the buildings, without reference to their contents?

A. Yes, sir.

H. A. EDWARDS, being first duly cautioned and sworn, testified as follows:

EXAMINATION.

By Mr. Dilworth:

Q. State your name, age and place of residence?

A. My name is H. A. Edwards, I am 39 years of age, reside at Grand Island, Nebraska, my occupation is that of an attorney.

Q. What official position did you occupy at the last session of the Nebraska Legislature?

A. I was its secretary.

Q. And as such secretary it was your duty to keep a correct account of the proceedings of the Senate, was it?

A. Yes.

Q. Dou you remember a bill entitled House Roll 33 coming to the Senate from the house?

A. Yes.

Q. Can you state from your recollection what the title of that bill was?

A. I can only say that the message from the house on that date I should be governed by.

Q. That message correctly stated the title of that bill?

A. Yes.

Q. Look at that paper and say if that is the message to which you refer? (Hands witness paper).

A. That is the message from the House of Representatives to the Senate of the passage of House Roll No. 33.

Q. What day was that received?

A. That was received on the 10th day of March, 1893.

Q. Is that message the same now as it was when it came from the House?

A. In my opinion it is.

Q. You noticed that writing in red ink?

A. Yes.

Q. The words "and to provide penalties for the violation of this act," do you know in whose handwriting that is?

A. I cannot say.

Q. Is it in your handwriting?

A. No, sir.

Q. You are positive of that?

A. I am positive of that.

Q. Do you know who wrote those words there in red ink, to which I have referred?

A. That I cannot swear to.

Q. Whose handwriting does it resemble?

Objected to by Mr. Woolworth as immaterial.

Q. Have you compared the handwriting with the

handwriting in other messages received from the House in regard to the passage of bills?

Objected to by Mr. Woolworth as immaterial, irrelevant and incompetent, it not being competent for a witness to speak from a comparison of handwriting unless he produces that with which the comparison is made or pretends to be made. And further that testimony upon handwriting based upon comparison is incompetent.

A. I have.

Q. How does that compare with the handwriting in the other messages to which you have referred, and that you know was written by someone in the House?

Mr. Woolworth objects to the question as immaterial, incompetent and irrelevant, it not appearing what papers received from the House the witness has made the comparison, or from the comparison of which he proposes to speak.

A. In my opinion the handwriting is the same.

Q. Now, Mr. Edwards, you remember that in the engrossed bill in the title these same words are in typewriting; you remember that fact do you?

Objected to as last above, and for the further reason that the question is leading.

Question withdrawn.

Q. When did you last see the engrossed copy of House Roll 33?

A. On the day on which it was returned to the House —Oh, excuse me, just a short time ago.

Q. That is indefinite?

A. Half an hour or so.

Q. Do you remember seeing the words in the title of the engrossed bill when you last examined it "and to provide penalties for the violation of this act?"

A. Yes.

Q. In what kind of writing were these words?

A. Typewritten.

Q. Do you know how those words came in the title of that bill?

A. I do not.

Q. Were they put in there by you or under your direction?

A. In my opinion they were not; I am positive they were not with my knowledge.

Q. Were these words in the title to the bill when the bill came to the Senate from the House; when it originally came to the Senate?

A. I desire to say that I can only testify as to my opinion.

Mr. Woolworth objects to the witness stating his opinion as immaterial and irrelevant.

Q. Did you see anyone make any change or alteration or amendment to the title to House Roll 33 while the same was in your possession?

A. No, I did not.

Q. Do you know of it having been done? 871

A. I do not; and I wish to state, furthermore, that the bill was in my exclusive control and possession while it was in the Senate.

Q. You would know if any amendments were made while it was in your possession?

A. Yes.

Q. You know whether or not you made any change in the bill at all?

A. Yes.

Q. Did you make any such change?

A. None whatever.

Q. The Senate journal was kept under your supervision, was it not, Mr. Edwards?

Objected to as leading.

A. Yes.

Q. Who kept the Senate journal; who had supervision and keeping of the Senate journal?

A. There were three persons assisting.

Q. Who had the absolute control and supervision of it —the one man?

A. I did.

Q. You got up the printed copy of the Senate journal?

A. I did.

Q. And the proceedings as recorded in the printed journal are correct?

A. They are for anything I know.

Q. If they were not you would know it?

A. Probably I would discover a discrepancy by thorough investigation.

Q. Do you remember the different readings of this bill in the Senate?

A. Yes.

Q. What different course did this bill take from any other bill that went through the Senate, as regards the readings?

Objected to as immaterial, irrelevant and incompetent.

A. It took the same course, the bill is of great length.

CROSS-EXAMINATION.

By Mr. Woolworth.

Q. Mr. Edwards, did you have charge of the preparation of the matter which went into the printed journal of the Senate?

A. I, in connection with Mr. Doughty had charge of it.

Q. Who is Mr. Doughty?

A. First assistant secretary; the printing of the journal was under my supervision alone.

Q. Did you make a copy of the journal for the printing, or did you send to the printer the original journal?

A. We made a copy of the original journal for the printer.

Q. Who made the copy of the journal which went to the printer?

A. Myself and Mr. Doughty.

Q. Did you do the writing?

A. A portion of it.

Q. How much of it did you do?

A. I should judge nearly three-fourths of it.

Q. Look on page 584 of the printed journal, and state whether you made the copy of that page; the copy from which the printer printed the journal?

A. Whether I individually made that?

Q. Yes.

A. That I cannot swear, Mr. Woolworth; I cannot distinguish one page from another.

Q. Then you cannot tell whether that was correctly copied or not can you?

A. I certainly believe it was.

Q. But you cannot speak from your own personal knowledge of the matter, whether that was correct or not?

A. Why I can speak with just the same degree of positiveness in regard to that as I can to any.

Q. You say you are not sure you wrote that page?

A. Not that identical page.

Q. Did you compare the original journal with the copy of that page?

A. We did.

Q. Who read the page from the original to make the comparison?

A. Well, that I cannot say; part of the time Doughty read and I compared, and part of the time I read and he compared.

Q. And it is only from that fact that you are able to say that is a correct copy of the original, is it?

A. That is right.

Q. Are you familiar with the printed copy of the journal?

A. I was at the time it was first gotten out.

Q. Will you turn to the note in the journal, where the bill first came into your House from the Lower House.

A. It is shown on page 569.

Q. Did you write that page on the original journal, all the matter that is contained on that page 569?

A. Do you mean that matter for the printer?

Q. No, sir; the original journal of the Senate?

A. I could not say, except so much of it as relates to the message; the message I did not write.

Q. Did you write the other matter that appears on that page?

A. That I cannot say.

Q. Did you write the copy of this page which went to the printer?

A. I cannot say, either I or Doughty wrote it, wrote the entire page, that only purports to be a copy of the original.

Q. Was that bill read at length the first time?

A. No, it was not. (The second reading is on page 591.)

Q. Will you tell me whether the same bill, House Roll 33, was read in full the first time in your House?

Mr. Dilworth objects to the question as immaterial and irrelevant.

A. It was not.

Q. Will you tell us whether the original journal, a copy of which appears in the printed copy on page 584, contained the words, "and to provide penalties for the violation of this act," in giving the title to this act?

A. That I cannot say, for the reason that the printed titles which we used in making up this copy, did not have the words, "and to provide penalties for the violation of this act" on it, and wherever they occur they were written, except in the first instance, the message from the House, in the other cases it was written on by some clerk of the Senate.

Q. Was it written on the journal when the original was made up showing the reading of the bill the first time?

A. Yes, it was in the original journal, and also in the copy.

Q. How was it the second time?

A. The same all the way through.

Q. Then you say the original journal showed these words the first and second time, when the journal was made up, did it?

A. I cannot understand the question.

Q. I understand you to say that the original journal when first written by you, showing the reading of the bill the first time, contained the words, "and to provide penalties for the violation of this act?"

A. It did, but those words were put in by some clerk in the Senate.

Q. By what clerk?

A. I cannot say, for the reason the printed title we used did not contain those words.

Q. Was that true of the bill all the way through?

A. True of the bill wherever it occurs.

Q. All through the journal of the Senate as originally made up—is that so?

A. Yes, through the various proceedings through which the bill went until it left the Senate.

Q. Well, who wrote it the other times?

A. That I cannot say; one of those three persons, myself, Mr. Doughty or the journal clerk.

Q. Who was the journal clerk?

A. Mr. Littlefield.

Q. Where does he live?

A. I think he lives in Grant, Perkins County.

Q. Did you write the journal when it was made up for the Senate?

A. Not the whole of it; I had the supervision of it.

Q. You supervised it?

A. Yes.

Q. Who wrote the rest of it?

A. Mr. Littlefield and Doughty; sometimes, when we were in a hurry, our stenographer, Shrader, helped to make it up.

Q. Any one of those persons then might have made

the entries in the journal showing the introduction of the bill and receipt of the bill from the House, and the first and second and third readings, and so on?

A. Everything except the original message.

Q. Can you tell now whether you wrote in one of the entries in the journal, either when it was received from the House, or read the first, second time or referred to the committee or read the third time?

A. I think I wrote it several times myself.

Q. Did you every time?

A. I am not positive as to that.

Q. Did you have the title of the bill written in typewriter, which is on the engrossed bill?

A. No, I did not.

Q. Who did?

A. I cannot say.

Q. Do you recognize the type of the typewriting that is used as the one that was used in your office?

A. Why, we had two or three typewriters that were bought in the Senate, and there were at least three in use in the House; while we have no means of distinguishing one typewriter from another, the type used in the original engrossed bill seems to be similar to the type used on some of the typewriters used in our office.

Q. Who were the typewriters in the Senate?

A. In the office, Mr. Shrader.

Q. Who were the others?

A. That was the only one in the Senate.

Q. I thought you said you had three typewriters in the Senate?

A. We had three, but they were used in the committee rooms only when used in the office.

Q. You are absolutely certain that these words "and to provide penalties for the violation of this act" were written, wherever the title appears in the journal of the Senate, are you?

A. Except in the original message from the House to the Senate, I am not certain it was written in in every instance—but when it was written, it was written by employees of the Senate.

Q. It may not have been written at all?

A. In some instances.

Q. It may have been omitted?

A. Yes.

Q. Your printed journal, however, is exactly correct?

A. Not exactly correct; as nearly so as books usually are.

Q. Is that as near as you can say that this is a correct print of the journal?

A. That is as near as I can swear.

Q. Look at page 584 and tell me whether the title of the bill at that place is there as given in the original journal?

A. I cannot say.

Q. You don't know?

A. No; for the simple reason that it was depending upon Mr. Doughty who compared either the copy we made

for the printer while I read or read while I compared; I cannot say his copy is correct.

Q. You cannot say anything about that matter whenever the title was given in the course of the original journal, can you?

A. I can say that to my knowledge, wherever it occurs it also occurs in the original journal, although it might not be shown in every instance in the original journal.

Q. Look at the bundle of papers which I now show you, entitled "Senate Journal, 23 session, 50 day, Monday, March 13, 1893;" read the page from that bundle of papers which I now show you; read it?

A. House Roll 33, a bill to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights on each of the railroads in the State of Nebraska, was read the first time.

Q. These words "and to provide penalties for the violation of this act" are not there, are they?

A. Not there; no, sir.

Q. Have you looked at this page to-day before coming on the stand?

A. Not that page; no sir.

Q. Then your printed journal is not correct in that respect?

A. I desire to explain my last answer; that I havn't seen the journal since it was filed with the Secretary of State until to-day.

Q. When was that?

A. It was some time in May; I think the middle of May.

Q. Your printed journal is not correct, then, in that respect?

A. It is not absolutely correct; no, sir.

Q. Do you mean to say it is correct at all when it omitted as important words as those?

A. I mean to say it is as nearly correct as public journals of that character are usually.

Q. Then it is usual to omit a part of the bill when it is printed in the journal?

Objected to by Mr. Dillworth as immaterial and irrelevant.

A. Well, if I had been entirely responsible for the preparation of the journal, and received the full consideration paid for the same I should then be considered personally responsible for any error that might creep in.

Q. You were secretary of the Senate were you?

A. Yes, but the authorization of that journal read "the secretary and assistant secretary should prepare it," and as a fact the assistant should receive part of the consideration.

Q. Then you were not responsible?

A. In connection with Mr. Doughty I was.

Q. Have you seen any other pages of the journal to-day?

A. Yes.

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Q. And you have compared them with the printed journal?

A. I have not.

Q. Why didn't you examine this page as well as the others?

A. I had no occasion to look at that page.

Q. What was the occasion of your looking at the journal showing the second reading of the bill?

A. That I got—you understand these notes from the printed copy, I had them simply for reference.

Q. I know, but why did you look at the original journal showing that entry for the second reading of the bill?

A. I have not looked at that journal showing the second reading of the bill.

Q. Then that may be just as recklessly printed as the entry for the first reading of the bill for aught you know?

A. Yes.

Q. And all the excuse you have for printing the journal incorrectly is that you shared the responsibility with the assistant secretary; is that so?

Mr. Dillworth objects to the interrogatory as improper, immaterial and not proper cross-examination.

Q. Is that so?

A. Well, I don't know that I have any scape-goat.

Q. Are you not the scape-goat yourself?

A. I am willing to take part myself most usually.

Q. Now such errors as that are common you say in such public documents when printed?

A. I did not, no, sir.

Q. They are not?

A. I say they are not common.

Q. Were any such other mistakes made in printing the journal of the last session?

A. Not to my knowledge.

Q. There might have been, might there?

A. There may have been some such mistakes made.

Q. Will you turn to the 14th day of March, 1893?

A. The second reading?

Q. Yes, read the entry you have about this bill that you have there?

A. (Reading): On motion the report of the committee was adopted; House Roll 33, a bill for an act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of railroads in the State of Nebraska, and to provide penalties for the violation of this act, was read second time and referred to committee on railroads.

Q. Did you think that was right?

A. It is right, sir.

Q. You think it is right?

A. Yes.

Q. Look at the batch of papers entitled on the first outside page Senate journal 23, session 51, day Tuesday, March 14, 1893, read this page which I show you?

A. House Roll 33, a bill for an act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska; read second time and referred to committee on railroads."

Q. That is right, is it?

A. That is the journal as made up.

Q. So there was a mistake in the printed journal, was there, in that particular?

A. No mistake in the printed journal; the mistake was in the original journal.

Q. Your printed journal purports to be a copy of the original journal?

A. Yes, a comparison of the same as I have stated was made by Doughty and myself and in every instance where the printed title was used in which there had been an amendment offered in either House it was my instructions to all those who worked with me it was to be inserted every time. It may be as I have previously stated that these words have been omitted in the original journal but that is not correct, it should appear in every instance.

Q. That same mistake in the original journal occurs wherever the title of the bill is inserted?

A. I think not, I think that is the exceptional thing.

Q. We have got two?

A. There might be more.

Q. How many more?

A. Well I cannot state, but no doubt it occurrs in a

number of instances where the bill was under consideration in the committee of the whole.

Q. You had no right to change the journal when you came to print it had you?

Mr. Dilworth objects as not proper cross-examination.

A. There were no changes made.

Q. But I have shown you that the printed and original journals don't agree; you recognize that don't you?

A. I think I have sufficiently explained that, that the mistake has been on the part of the party comparing the original journal to make these changes.

Q. Your duty was only to print the journal and print it just as it was made up and on file and approved by the Senate?

Mr. Dilworth objects as not proper cross-examination, as his duty is prescribed by law.

Q. Is not that true?

A. Yes.

Q. You didn't do that did you?

A. We intended to do it.

Q. You didn't do it did you?

Objected to as not proper cross-examination.

Q. How is that, you didn't print it as it was on file?

A. We intended to.

Objected to as not proper cross-examination.

A. We intended to.

Q. Did you do it in point of fact; answer the question?

Same objection urged as before.

A. It appears that we failed to do it in the instances you have pointed out.

Q. Is the printed book correct in giving the journal for the 16th day of March, and the action of the Senate on this bill at that time?

A. My attention has not been called to that, I think it is.

Q. You cannot state positively about that can you?

A. I can state positively that it is my opionion that it is.

Q. Well what is the fact?

Objected that witness has already answered.

A. I could not state until I made an examination.

Q. Look at the batch of papers entitled on the first page Senate Journal, 23d session, 53d day, Tuesday, March 16, 1893; state whether you have looked the same through carefully for the purpose of seeing if there is any entry showing the proceedings of the Senate with respect to House Roll 33?

Objected to by Mr. Dilworth, that the record speaks for itself.

A. Here it is; written in there.

Q. This batch of papers I show you is your original journal is it, from the Secretary of State's office?

A. Yes.

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Q. Will you please read to the commissioners the page from that I now show you?

A. House Roll No. 33, a bill for an act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska; made special order for Thursday, March 21st, as amended by the Senate railroad committee.

Q. Was that correctly printed in the printed journal?

A. The printed journal in that instance is correct; this committee report is not correct in that it does not show the title of the bill.

Q. The title of the bill is there written, is it not, in the original journal and not printed; the title of the bill in the original journal is written with a pen and not printed?

A. Yes, and in the printed journal it has the penal clause or wherever the penal clause is omitted it is clearly a mistake.

Q. That is not the question I asked you. I want to know whether in the original journal the title is written with a pen or printed?

A. Printed, wherever we have them we use them.

Q. Look at the batch of papers which you have just read and tell us whether the title of the bill is written with a pen?

A. It is.

Q. It is written with a pen is it not?

A. Yes.

Q. Now, does it say to classify rates, or does it say to classify freights?

A. It says to classify freights.

Q. That was not right was it?

A. It was a committee report; we had no authority to change a committee report.

Q. It was a report the committee made to the Senate, was it?

A. Yes, that was the original report.

Q. Look at the papers I now show you entitled as the other papers were, except "57 day Tuesday, March 21, 1893, and read from the page I now show you of the entry which you find there?

A. "Your committee of the whole respectfully report they have had under consideration House Roll No. 33; a bill for an act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska."

Q. Look at the batch of papers I now show you entitled as the other papers to which your attention has been called, being for the 60th day, Saturday, March 25, 1893; read the entry which you find there relating to this bill?

A. House Roll No. 33; a bill for an act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska.

Q. Look at the batch of papers entitled in the same

was 61st day, Monday, March 27, 1893, and that page to which I call your attention relating to this bill?

A. It reads just the same as before.

Q. It omits the words "and to provide penalties for the violation of this act," does it not?

A. That is right.

Q. Was that the final passage of the bill?

A. No, that was in the committee of the whole where the title occurred thirty or forty times; I presume in a majority of cases you will find that omitted in the same way.

Q. The title appears how many times?

A. That the penal clause I think you will find omitted in most instances all the way through; probably the title occurs thirty or forty times.

Q. I ask you now to look at the engrossed copy of the bill and read the entry I now show you?

A. That is the committee report.

Q. Read it?

A. I will read it as a committee report.

Q. Yes, read it.

A. "Your committee on railroads to whom was referred House Roll No. 33, a bill for an act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, have had the same under consideration and instructed me to report the bill back to the Senate with the recommendation that it be made a special order for Thursday, March 21st, as amended by the Senate railroad committee. J. P. MULLEN."

Q. Look at the page of this engrossed bill and read it, will you; the amendment to the engrossed bill, copy of the Senate amendment, the pages attached to the engrossed bill?

Mr. Dilworth objects to the interrogatory as not proper cross-examination; there was nothing appeared in the direct touching the amendment to the engrossed bill.

A. The senate amendment to the engrossed bill from which I read, at lines 149 to 165, inclusive of the amendment to House Roll No. 33, recommended by the committee on railroads amending section three from line 9 to line 227, inclusive as printed and adopted, be amended to read as follows.

Q. Read the next line as the same appears underneath the ink erasure?

Objected to as last above.

A. "Wheat, flour, corn, lumber, salt."

Q. Over these words which you have last read is an ink pen mark, is there not?

A. Yes; which I have last read.

Q. Was that pen mark on there when it went from your House down to the lower House?

A. It was not.

Q. I call your attention to the title of this engrossed bill and ask you to state whether the words, "And to provide penalties for the violation of this act," are written with a pen or typewriter?

A. They are written with a typewriter.

Q. Is that typewriter like the one you used in your office?

Objected to as immaterial and not proper cross-examination.

A. I cannot answer that, Mr. Woolworth.

Q. What do you think about it?

Mr. Dilworth objects as calling for an opinion from the witness.

A. I cannot tell one typewriter from another by the work.

Q. You don't know when that was pasted on there, do you?

A. I am very sure it was pasted on there before it came into my possession.

Q. You won't swear to that positively, will you?

A. I swear to the best of my knowledge that I believe it was on there.

Q. Your knowledge and belief has been found to be incorrect in many particulars, might it not be now, as well?

Objected to as assuming a fact and not proper cross-examination.

A. I think not, and in stating it I wish to make this explanation, that the discrepancies that occurr between the printed bill and the original journal occur for the reason that we were using in the Senate the printed copy that didn't use the words "and to provide penalties for the violation of this act". When the copy for the printer was prepared I got a new set of titles, and the printed copy shows

that title, and that does not, but I supposed it was put in in every instance.

Q. When the engrossed bill came to your House from the lower House the printed bill came with it from the lower House did it not?

A. Well not exactly with it but soon after, furnished to the file clerks.

(It is admitted that the book produced comes from the office of the Secretary of State, and is the official copy of the printed bills introduced into the House of Representatives.)

Q. Look at the batch of papers I now show you entitled at the head Legislature of Nebraska 23d Session House Roll No. 33, a bill for an act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska. Is the bill which I now show you a copy of the printed bill which came to your House from the lower House as you have already stated?

A. Yes, I think it is.

Q. Read the enacting clause?

A. "Be it enacted by the Legislature of Nebraska."

Q. Now sir, I call your attention to the engrossed bill to which your attention has heretofore been called, and ask you to read the tenth and eleventh lines, counting up from the bottom?

A. "C. R. for carrier's risk; S. U. for set up; K. D. for knocked down; C. L. for car load."

Q. Now read the nineteenth, twentieth and twenty-first lines of the printed bill to which your attention has just been called?

A. "1½ times first class 3 T. L.; 4 times first class 4 T. L. C. R. carrier's risk; S. U. for set up; K. D. for knocked down; C. L. for car load; P. P. for pre-paid; N. S. for not otherwise specified in this classification."

Q. The several pages of paper which I have shown you entitled Senate Journal 23d Session, giving the different days of the session and the days of the week and month are the original journals prepared by you are they not?

A. Yes, except roll call.

Q. And the journals as filed by you in the Secretary of State's office, are they not?

RE-DIRECT EXAMINATION.

By Mr. Dilworth:

Q. In reading from the printed copy you used the term "3 T. L." and "4 T. L." Didn't you mean "3 T. 1" instead of the letter "L" ?

A. Yes, that is so.

Q. In order that a proper understanding may be had of your testimony in regard to the printed bill and the engrossed bill I will ask you if the engrossed bill contained the title and the enacting clause when it came from the House to the Senate as it does now?

A. Yes, no change was made in the Senate.

Q. This batch of papers that you read from for Mr.

Woolworth attached to the engrossed bill is a report from a committee?

A. Yes; yes, one amendment is, that one is not (pointing); these amendments are the report of the committee of the whole.

Q. That amendment where the line now appears drawn through the words as read by you is a report of the committee of the whole, of the Senate?

A. Yes.

Q. Now then, in the journal of the Senate wherever it appears that the title of the bill was written out in full is where it refers to some report of a committee?

A. Some committee; that is right.

Q. Now in looking through the journal proceedings I find where the title is referred to with its printed title; will you explain why it was done?

A. The custom is for each House to get printed titles of the bills as soon as they are introduced and upon the passage of the bill in either House it is always customary for the secretary or clerk to deliver the bill to the other House and also to deliver printed titles in the composition of their respective journals.

Q. Now when these bills, or all bills were read in the Senate that came from the House, were the titles of these bills read from the printed slips, or were they read from the bills themselves, the engrossed bills?

A. In the formal reading of a bill it was the custom to read the title as it appeared on the engrossed copy or the

original bill; the printed titles were only used to facilitate the making of the journals.

Q. Then if the record of the proceedings of the Senate shows that part of the title was left out in reading the bill on different days, it was a mistake in the recording and not a mistake as to the reading of the bills?

Mr. Woolworth objects to the interrogatory as immaterial and leading and not the best evidence,

A. Yes, that is it precisely.

Q. Which bill is it that goes from one House to the other, that is a bill originating in the lower House, for instance, which bill is it, the original bill or the engrossed bill that goes to the other House?

A. The engrossed bill.

Q. This bill was read on different days the same as every other bill that passes the Senate?

Objected to as immaterial, irrelevant and not proper re-direct examination. And the same matter to which the witness has already testified, that it was read the same as all bills of great length.

Q. Now this bill was read on three separate days in the Senate as set forth in the printed copy of the journal proceedings?

A. Yes, the same as I have previously answered.

Q. In making up the copy of the journal to go to the printer you and who else made up that copy?

A. Mr. Doughty.

Q. You made it up together?

A. Yes.

Q. And you compared it?

A. Most of the time I read the original copy; I read the copy for the printer and he compared most of the time.

Q. That was the way it was prepared for the printer?

A. Yes.

Q. You have read Mr. Doughty's testimony given in this case, have you?

A. Only a small part of it.

Q. You have read where he refers to your handwriting on the message that came from the House setting forth that the House had passed House Roll No. 33; you read his testimony in regard to that?

A. Yes.

Q. The paper I showed you awhile ago is the paper to which he refers in his testimony, is it not, Mr. Edwards?

A. Yes.

Q. I refer to the paper which I showed you on your direct examination, in which you testify that the written matter written therein in red ink was not in your handwriting?

A. Yes.

Q. Now, you wished to make some explanation some time ago and Mr. Woolworth stopped you; I wish you would go on and explain?

A. I think I have sufficiently explained that. It was simply with reference to the use of these printed titles; that was all.

Q. These mistakes that have been pointed out on cross-examination were the mistakes of some clerk in not properly recording the action of the Senate, were they not?

Mr. Woolworth objects to the interrogatory as immaterial, irrelevant and not proper re-direct.

A. Mistakes that have been omitted are not mistakes in the failure to show the action of the Senate but in the failure in the recording journal clerk to record the title of the bill.

Q. And as a matter of fact, where the record shows that this bill was read first, second and third times the title of the bill was read as a matter of fact as it now appears in the engrossed bill?

A. Yes.

RE-CROSS-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Edwards, did you read this bill or the title of it, either of them, the first time in the Senate, or did one of your subordinates read it?

A. No, I think I read it; I did nearly all the reading.

Q. Will you swear you read that bill the first time?

A. I will swear I believe I did.

Q. I don't want your belief; will you swear you read it the first time?

A. Why, I cannot do that.

Q. You cannot swear you read it the second time?

A. I can swear I believe I did.

Q. Yes, but you cannot swear positively to the fact?

A. I will explain my answer by asking you a question; can you swear what you did a year ago to-day?

Q. No, I cannot; you know it was read, but you don't know whether you read it, or whether Doughty read it, or whether Littlefield read it?

A. I would answer to this positively, that if the journal shows I was present at that time that I read the title myself; and I think I was present every day, every work day during the session.

Q. Then you mean to say you read this bill the second time?

A. I swear I am positive I read it the second time.

Q But you wont swear you read it the first time will you?

A. I swear I believe I did.

Q. Now you swear you believe you did?

A. That is all I can testify to, of course.

Q. The third time you didn't read it at large?

A. Yes, in connection with others.

Q. You read part and somebody else read part?

A. That is right.

Q. You are sure of that?

A. Yes.

Q. Which part did you read?

A. I read the larger part of it.

Q. The first part or the middle part or the last part?

A. My impression is that I began the reading of the

bill and read nearly one hour; we were nearly forty-eight hours reading it.

Q. Didn't you skip a little of that bill when you read it?

A. No, sir, not a bit, I didn't consciously skip a single word; if I did make a mistake it was a mistake of the head and not of the heart; I didn't intend to.

Witness excused.

Mr. Woolworth offered in evidence the title of the original bill introduced into the House, and presented here from the office of the Secretary of State, as follows:

"A bill for an act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska."

H. A. EDWARDS, re-called for further examination.

By Mr. Dilworth:

Q. There was considerable excitement in the Senate at the time this bill was pending in the Senate was there not?

Objected to as immaterial.

Q. And considerable attention being paid to the bill at the time?

A. Yes.

Q. Do you remember at the time the bill was being read the third time about any of the Senators either for or against the bill keeping a close watch upon the reading of the bill?

Objected to by Mr. Woolworth for the reason that it is immaterial, irrelevant and it does not appear that the witness is competent to speak of this matter.

A. Yes.

Q. Do you remember who they were and how many?

Same objection as last above.

A. I know of no one except Senator North, and other Senators who took his place while he was at lunch.

Q. Was Senator Miller of York one of them?

A. Yes; he followed it all the way through, he was the only man.

Q. Was there any objection raised at the time about the bill not being read fully, during the reading of it?

A. Yes there was by Senator North.

Q. And the matter corrected and the bill read fully?

Obected to as leading.

A. I don't know there were objections made at the time, but I know the attention of the chair was called to these discrepancies.

Q. Was there any objection raised that the bill was not being read entire at that time?

A. No, not at that time.

By Mr. Woolworth:

Q. Do you mean to say there was nobody attended carefully to the reading of the bill except North?

A. I think I explained that.

Q. Explain it again?

A. He, to my knowledge, compared the reading of the bill entire, other Senators took his place while he was at lunch, and there may have been others did the same thing, but I know that Mr. North compared the reading of the bill.

Q. On which reading was that?

A. On the third or last reading.

Q. You say that Senator North called the attention of the chair to some matter, what was that?

A. To the discrepancies that existed between the printed copy of the bill and the engrossed copy which was being read at the desk.

Q. There were quite a number of these discrepancies were there not?

Objected to as immaterial and not proper cross-examination.

A. I think there were.

Q. And corrections were made, were there, accordingly?

A. Not at the desk.

Q. Were they anywhere made?

A. Not in the Senate.

Q. Were they out ot the Senate?

Objected to as immaterial and not proper cross-examination.

A. Well, the line that was drawn there through that amendment in the engrossed copy was certainly done out of the Senate, whether that is a correction or not I am unable to say.

Q. Was that all of the corrections made out of the Senate?

A. That is all my attention has been called to.

Q. You don't know whether the other discrepancies were corrected or not?

A. I cannot say.

Q. That line, (pointing) was not drawn through there when it went from the Senate to the lower House, was it?

A. It was not.

Witness excused.

W. F. PORTER called and sworn on behalf of defendants.

Examined by Mr. Dilworth:

Q. Where do you reside?

A. Merrick County.

Q. What business are you engaged in?

A. Farming.

Q. Were you a member of the last Legislature of the State of Nebraska?

A. Yes.

Q. What position did you occupy in the Legislature?

A. Chairman of the railroad committee.

Q. Were you present during its session in the winter of 1893?

A. Yes.

Q. Have you read the testimony of one Shumway, who was clerk of the engrossing committee, as taken in this case?

A. Most of it.

Q. Did you read that portion of it wherein he says that certain amendments were made to House Roll No. 33 while the same was in the hands of the engrossing committee, by directions of the introducers, or of the speaker, or of the chairman of the enrolled and engrossing committee, by yourself as chairman of the railroad committee?

Objected to as immaterial and irrelevant.

A. Yes.

Q. Now, I wish you would state exactly what was done in regard to that matter; what if any corrections were made and what instructions were given to any of the clerks, to whom the instructions were given and by whom given?

A. To state exactly I cannot; this man Shumway is a man I cannot by name place in my mind, I remember the man that instructions were given to, but not being familiar with his name I don't know whether it was Shumway or someone else. I think it was before the House was called to order one morning, myself—

Mr. Woolworth objects to the statements of the witness as immaterial, irrelevant, incompetent and hearsay.

(By the witness.) Myself, Speaker Gaffin and I think Mr. Newberry, were called into the engrossing or enrolling room, as the case may be, by Mr. Rhodes, chairman of the committee on enrolled and engrossed bills, and consulted in regard to some clerical errors that had been discovered in the bill. What these errors were I cannot state. I remember after looking at the printed bill there relating to that amendment beginning with line 149—

Q. The question refers to a time before it got into the Senate?

A. Now, sir, I cannot state as to that, whether it was before it went to the Senate or afterwards; the fact of the meeting and what transpired there never again occurred to me until I saw it in the newspapers last December; as I understood it at that time it was nothing of relative importance, it was simply correcting clerical errors, such as occurs frequently in engrossing bills.

Q. What were these clerical errors?

A. To the best of my recollection and knowledge they were clerical errors by omission, in some cases or words misspelled; I am not positive about that, I am positive there were some omissions; words had been omitted in engrossing the bill and didn't appear as they did in the original bill; the intention was to have it comply with the original bill, the bill the House had acted upon.

Q. Can you give any or all of the words that had been omitted?

A. I cannot from the fact, as I stated, the matter never

occurred to me again until several months; I think it was in November I saw it in the paper that such evidence was being taken, but so much time having elapsed and my having so many things on my mind at the time it occurred I cannot state positively what the changes were or corrections.

Q. Now these instructions that were given were for the purpose of correcting any errors that were made in the engrossing room by not having engrossed bills compared strictly with the original bills?

Objected to as leading.

A. That was as I understood it.

Q. And no other instructions were given?

Objected to as leading.

A. None that I have knowledge of.

Q. Now, Mr. Porter, do you remember the time the bill came back to the House from the Senate that certain amendments were attached to it?

A. Yes.

Q. You have read Shumway's testimony about the conference that took place in the committee room, at which you were present, and Mr. Newberry, and Gaffin, and Rhodes, and himself were present?

A. Yes.

Q. I wish you would explain in regard to that, about certain expressions used by yourself, as he claims?

A. Well, the only expression I noticed in particular was relative to some remark that Shumway testified I made in regard to the Supreme Court; I don't recollect just what

it was; I would like to have that read—here it is, and also something in regard to campaign thunder.

Q. Now, Mr. Porter, to make use of this expression in regard to that conference being held in the committee room after the bill had come back from the Senate with certain Senate amendments, "They talked for some time, during the conference, Porter said if the bill went into effect with these articles eliminated, or words to that effect, it would not be any relief to the farmer;" what in regard to that?

A. I can say positively I never made such a remark as that, and I have no recollection of ever making any remark by which any such construction could have been founded upon it.

Q. Do you know of any one else at that time making any such remark, or any remark that could be drawn from?

A. No, sir.

Q. Was any such remark ever made in your presence in the committee room?

A. No, sir. I have no knowledge of any such remark having been made by any one at any time.

Q. He also says "at the time we had that conference the following remark ——— well it was said if the railroads objected and the bill was taken to the Supreme Court and the Court threw the bill out it would confirm the statement made before, that the Court was owned by the corporations;" was there any such statement as that made there or at any time that you know of?

A. No, sir.

Q. Either by you or any one else?

A. No, sir.

Q. Have you anything further to say in regard to that conference that I have not called out?

A. Nothing in regard to that; there is something relative to that amendment of the Senate that I want to testify to.

Q. Now, Mr. Porter, examine that page I show you; what is that page; what does it purport to be?

A. Senate amendments to House Roll 33, or amendments.

Q. Amendments made by who? Do you what this book is?

A. I take it that it is a copy of the acts that passed the last Legislature which became laws.

Q. And it is the same book used in evidence here when Mr. Edwards' testimony was being taken just now, and produced by Mr. Woolworth here?

A. Yes; that is what I understand it to be.

Q. And from the Secretary of State's office?

A. Yes.

Q. Now this amendment was offered by whom?

Mr. Woolworth objects as immaterial, irrelevant and it does not appear that the witness has any knowledge of whom it was offered by.

Q. Do you know who made up that amendment or who offered it in the House?

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A. Yes.

Q. Now what amendment is this?

A. The amendment that was prepared by the railroad committee for House Roll 33, as introduced by Mr. Newberry.

Q. I wish you would read from line 142 to and including line 149 of that amendment?

A. Carload prices in cents per hundred pounds, corn, oats, the next line below—wheat, flour, millet, flax seed; this other column should have been read—corn, oats, barley and other grains and mill stuffs, hard and soft lumber, laths, shingles, doors, sashes and blinds, salt, lime, cement, stucco. That includes all between 142 and 149.

Q. But does not include 149?

A. No, sir.

Q. Will you look at this page attached to the engrossed bill and state what that purports to be?

A. At lines 149 to 165 inclusive of the amendment to House Roll No. 33, recommended by the committee on railroads.

Q. Is that the amendment, a portion of which you have just read, is that what is referred to there?

A. No, sir; that is not referred to.

Q. Does that refer to that amendment there?

A. Yes; it refers to the amendment, but not to that portion which I read.

Q. Now, where does this amendment commence, with

reference to the amendment of the railroad committee's amendment to the original bill?

Objected to as immaterial, irrelevant and the records themselves will show.

A. It commences with the first line of the schedule of rates of the railroad committee amendment, it begins with line 149.

Q. And with reference to the headings of each of these columns; does it begin with the headings or after the headings?

Objected to as last above.

A. It begins after the headings; it is a reference to the headings.

Q. Now, Mr. Porter, this House Roll 33 was a bill of considerable importance, was it not?

A. Yes.

Q. I wish you would state about its being read in its course through the House, as compared with the course that every other bill takes through the House?

Objected to as immaterial, irrelevant and leading.

A. Its course was exactly the same as all other bills of any length, with this exception, it was watched more carefully during its third reading.

Q. And it was wholly and completely read at large the third time, was it, Mr. Porter?

A. Yes; to the best of my knowledge there was not a single word omitted; of course I say this to the best of my

knowledge; I didn't watch every identical word, but there were those who were watching all the way through.

Q. How was it read on the other days or at other readings as compared with other bills?

A. Just the same as other bills; by its title.

Q. On different days?

A. Yes.

Q. Is there anything further you desire to say?

A. I think of nothing further at present.

CROSS-EXAMINATION.

By Mr. Dillworth:

Q. Did I understand you to say you were chairman of the railroad committee?

A. Yes, of the House.

Q. And you were called into a conference while the bill was pending in the House?

A. I think it was while the bill was pending in the House; as I stated in my examination I cannot recall the time, but recollect being called in there one morning; and as I stated, I didn't recall it again until I saw it in the papers, but could not recall the date or within a few days of the time.

Q. You can remember whether the bill had passed your House or not?

A. I cannot be positive about that; no, sir; I cannot be positive about that.

Q. The bill had been engrossed at the time you had this conference, had it?

A. I think it had.

Q. Who asked you to go up there?

A. I think it was Mr. Rhodes, chairman of the committee on engrossed and enrolled bills.

Q. And what was it you were called up to consult about?

A. Well, sir, to the best of my recollection, it was to consider whether it was necessary in order to correct some clerical errors discovered in the bill to have the bill returned to the House to make these corrections.

Q. These corrections were in the engrossed bill, were they?

A. They were.

Q. They could not have been in the original bill, could they?

A. No, sir.

Q. They were just in the engrossed bill?

A. My recollection is it was to make the engrossed bill conform to the original bill.

Q. You are pretty certain about that?

A. Yes.

Q. Was there any corrections to be made in the original bill?

A. I don't think there was a single one; in fact to the best of my knowledge, I will say positively not.

Q. It was just to correct errors in the engrossed bill?

A. Yes.

Q. Who else went up there?

A. I think Mr. Newberry was present besides Mr.

Gaffin and Mr. Rhodes; I think there were four of us that were members of the House, and, possibly, Mr. Knott and Mr. Rhodes' committee clerk.

Q. Who was the clerk of the enrolling committee?

A. Of the committee on engrossed and enrolled bills; that is one of the standing committees of the House.

Q. Were you ever called up there to consider the propriety of correcting any errors in any other bills; engrossed bills?

A. I think not.

Q. It was very important to have these clerical errors corrected, was it not?

A. Well, now as to that, my recollection of it is that it was not anything that made any material change any more than certain words had been omitted that would change the sense of the bill.

Q. Do you remember any one of these changes?

A. No, sir; not definitely.

Q. Have you any recollection on the subject at all?

A. The only thing that I remember more perfectly with regard to it than anything else was the second time, I think.

Q. I am talking about the first time?

A. I don't recollect anything in particular that I can specify, the first time.

Q. The question was whether it was necessary to refer the engrossed bill from the committee on engrossed bills

back to the House for the House to correct the engrossed bill?

A. The question was whether it was necessary to have the bill returned to the House or whether those corrections could be made in the engrossing rooms.

Q. The engrossed bill had not yet been sent to the House, had it?

A. I think not.

Q. Had the engrossed bill been read by the chairman of the committee on engrossed and enrolled bills, or clerks of the committee or others employed by the chairman of that committee?

A. My recollection is that it was being read then, at that time, and that the errors were thus discovered under the process of being read.

Q. The errors were the discrepancies between the engrossed bill and the original bill?

A. Yes.

Q. Do you suppose if I point out any of the discrepancies you could recollect them?

A. Possibly, but I cannot say positively.

Q. Do you know in whose handwriting the original bill was?

A. The original bill, no, sir, I do not, but I think it was in Mr. Newberry's.

Q. Whose handwriting was the engrossed bill in?

A. I do not know.

Q. Do you know in whose handwriting the amend-

ments are—on the third page, "Amend section one by inserting the following: line 101½ for contingent fund, 2"—do you recognize that handwriting?

A. No, sir.

Q. Take the next slip which is pasted to the same page, begin with the figures in the first column to the right of the various articles, etc., do you know whose handwriting that is?

A. I do not.

Q. Do you know Newberry's handwriting?

A. No. sir.

Q. The eleventh line from the top on the page marked 3, I find interlined "L. C. L. for less than car load lots"; do you recognize that handwriting?

A. No, sir.

Q. Was not that one of the discrepancies that was corrected in the engrossed bill?

A. I cannot say as to that.

Q. What is your best recollection on that subject?

A. There was something relative to that L. C. L., but what it was I cannot say definitely, but I remember after seeing it there the letters L. C. L., less than car load lots, but as to interlineations I have no recollections of any which had been made.

Q. Now the fifteenth line on the same page, "A., L. C. L., C. L.!" do you know in whose handwriting that is?

A. No, sir; I am unfamiliar with any of the handwriting.

Q. Was not your attention called to the omission of the letters "L. C. L."?

A. Possibly, but I cannot say positively.

Q. You think it was?

A. I cannot say that much; it may or may not; I think there was something said about that L. C. L., but what it was I don't just remember; I remember going to Newberry one day in the House and asking him what "L. C. L." meant, and he said less than car load lots, and one or two other things; that was in the House.

Q. Your attention has been called to a paper the last page of which reads, House Roll No. 33, read first time January 14th, 1893, which has quite a number of entries in red ink on that page, that is the document you have been speaking about in answer to the questions I have been putting to you?

A. Yes, House Roll No. 33.

Q. With these red ink entries on the last page?

A. I presume so, I never took particular notice about that.

Q. You see we have been talking about that and we want to identify it; that is the paper you have been speaking about in your testimony?

A. Yes.

Q. In your answers to my questions your attention has been called to the document on the last page, of which I read the first and second lines; I am correct about it?

A. Yes.

Q. You said this was read the first time very carefully, was it?

A. Yes.

Q. Did you follow the reading of it by the clerk?

A. Not entirely.

Q. Did you any part of it?

A. Yes.

Q. How much?

A. I cannot say as to that, perhaps one-fourth of it; there were those that were following it all the way through; one gentleman I remember distinctly, Mr. Cooley from Cass County.

Q. Did you follow it as carefully when it was read the first time?

A. It was read the first time by title.

Q. It was not read at large the first time?

A. No, sir.

Q. How was it the second time?

A. The same as the first; the same as all other bills were at that session.

Q. It was just read by its title?

A. Yes.

Q. I call your attention to the Senate amendments to which you have already testified, beginning at the top of the page at lines 149 to 165 inclusive and so on?

A. Yes.

Q. When that bill came down to your House was the

ink mark drawn across the words wheat, flour, corn, lumber —was that (pointing) drawn across there?

A. I think not.

Q. Do you know when it was done?

A. Well now, right there I spoke of the second time that Rhodes called me into the engrossing room, in looking over that Mr. Rhodes individually had come to the conclusion ———.

Q. You need not tell what Mr. Rhodes thought or said?

A. I can omit all of it?

Q. I rather you would.

A. The question that was considered that morning was as to whether that line or those words were included in the amendment offered by the Senate.

Q. You mean passed by the Senate?

A. Yes and sent back to the beginning at line 149 I think it is to 165 inclusive; and there was two or three of us that morning looked it over carefully and we concluded that had no relation to that part of the House amendment, and that that line ought not to appear in the amendment as it specifies it shall begin at line 149 and has no reference to the columns and is not a part of it; that ink line was drawn through those words in the engrossing rooms as being no part of the amendment. I think Senator Mullen offered the amendment.

Q. Who drew the line?

A. That I cannot say.

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Q. You didn't do it?

A. No, sir.

Q. Did you see it done?

A. No, sir; I don't think I did; I have no recollection of seeing it done; I recollect very distinctly having my attention called to it by Mr. Rhodes, and it being specified that it didn't belong there, and called me and two or three others.

Q. But the words were there when it came down from the Senate?

A. Yes.

RE-DIRECT-EXAMINATION.

By Mr. Dilworth:

Q. I wish you would examine this original bill and see whether it was written on both sides of the page or not?

A. Yes, I remember about Mr. Newberry; I remember about the printer saying the bill was so long delayed in being returned to the House because it was written on both sides.

By Mr. Woolworth:

Q. And that it was more tedious copying it; is that all you remember about it?

A. As chairman of the railroad committee I was interested in getting the bill before the committee to be considered, knowing, in all probability, that it would have to be amended and we wanted time to consider it. I went to see the chairman of the committee on printing to inquire why the delay in having the bill returned to the House, and

that was the first time it was called to my attention that he had written the bill on both sides of the paper.

Q. It hadn't been considered in your committee at that time?

A. No, sir; that was before the bill was returned from the printer.

By Mr. Dilworth:

Q. I wish you would state whether this bill is written on both sides of the paper or not—the engrossed bill?

A. I don't think any part of it was written, only just one page, it is not customary; and why Newberry did it was more than I could understand.

By Mr. Woolworth:

Q. The document I called your attention to in the interlineations were written on both sides, were they not?

A. The original document?

Q. Yes.

A. Yes, that was written on both sides.

Witness excused.

J. N. GAFFIN called and sworn, for defendants.

Examined by Mr. Dilworth:

Q. Where do you live?

A. Colon, Saunders County, Nebraska.

Q. What is your business?

A. Elevator business, farmer, and cattle feeder.

Q. Are you a member of the present Legislature?

A. I was.

Q. And were present at its session here last winter?

A. I was.

Q. What official position did you occupy in the Legislature?

A. I was speaker of the House.

Q. You have read the testimony of Mr. Shumway, taken in this case?

A. I have only read a part of it, probably the first twelve or fifteen pages, I hadn't seen it until this afternoon, and read some of the first part of it.

Q. Have you read that portion of it where he says that certain members of the House directed that the engrossed bill should be corrected?

A. I did, that is I noticed that was in the first part of the testimony, there may be more in the latter part of the testimony I haven't seen.

Q. I wish you would state, Mr. Gaffin, clearly and fully, what instructions you have ever given to any one—any of the employees of the House or members—regarding any alterations or amendments or corrections of any bill being considered by a committee, and especially by the engrossing committee?

A. In answer to that I will say that all the instructions I ever gave, all the positive instructions I gave, were that no changes should be made under any consideration except clearly clerical errors in the spelling of words—clearly clerical errors; that was not in regard to this bill

particularly, but in regard to all bills. Mr. Rhodes first and Mr. Shumway later came to me and asked in regard to that matter in regard to bills in general; this was in the evening that Mr. Rhodes spoke to me first, and I told him that I would look the matter up and give it careful thought and give an answer in the morning. I had no experience in regard to this engrossing and enrolling matter; I had a talk with Church Howe and with Watson, and thoroughly satisfied myself that the duties of this committee were, in engrossing bills, to correct misspelled words and clearly clerical errors, but in no way changing the meaning or intent of a bill. For instance, beginning a sentence with a small letter, it should be changed to a capital; I explained that clearly to Rhodes and the chief clerk, Shumway. Those were my directions in regard to all bills, and no bill in particular.

Q. Do you remember giving any instructions in regard to House Roll No. 33?

A. No, sir; except this, there was one time when the bill came from the Senate that Mr. Rhodes came to me in the evening and stated that he wanted I should come up to the engrossed and enrolled committee rooms before the session opened; he didn't state for what purpose and I told him I would if I could, so the next morning, I think about half past nine o'clock, about half an hour before the Legislature opened, I went up to the room and found Rhodes, Porter, Newberry and Shumway in the small committee room, and they were then looking over House Roll 33, and discussing

the Senate amendments to the bill, and was there about five minutes, only a very short time. They asked me again in regard to the changes that they had any right to make in a bill in this committee; I told them they had no right to make any changes in a bill whatever except clearly clerical errors; changes should be made in the House, clerical errors in the committee; when it came to the House from the Senate we had no right to make any changes whatever. These are all the instructions that I remember of ever having given in regard to it.

Q. This meeting that you speak of, is that the meeting that Shumway refers to when he says the expression was made in regard to the Supreme Court?

A. I think it was; it was the only conference I was called to in the committee rooms.

Q. Was there any such expression used as if the railroads objected and the bill was taken to the Supreme Court and the Court threw the bill out on account of the words found in there it would tend to show that the statements made before that the Court was owned by the railroads was true?

Mr. Woolworth objects as leading.

A. No such statement was ever made in that room while I was present.

Q. Or any statement that the State of Nebraska could be turned over?

A. No, sir.

Q. Now Mr. Shumway says that Mr. Porter in that

conference said if the bill went into effect with these articles eliminated or words to that effect that the relief to the farmer would not be forthcoming, and it would be hard to explain that the bill was all campaign thunder; I wish you would explain that?

A. I will say in regard to that the same as the other, no such statement or remark was made in the room while I was present; I heard no such remark.

Q. Was there any remark from which such an inference could be drawn?

A. No, sir.

Q. Now in regard to the passage of this bill through the House, this bill was read; how was this bill as compared with other bills that were passed?

Objected to by Mr. Woolworth as immaterial and irrelevant.

A. It was read just the same as all other bills on three different days.

Q. Was last winter your first legislative experience?

A. No, sir; I served as a member the session before.

Q. And how does the passage of this bill, House Roll No. 33, compare with the procedure of other bills at the previous session?

Mr. Woolworth objects to the interrogatory as immaterial and irrevelant.

A. Just exactly the same; bills were handled precisely the same.

Q. Upon the third reading, how was this bill read?

A. I think upon the third reading the bill was read in full and at large. There was a part of the time during the third reading I was absent for lunch, but while I was present in the room, which was the greater part of the time, perhaps with the exception of thirty minutes, the bill was read at large and in full.

Q. Is there anything further you desire to state that I haven't called out—do you know this Shumway who testified in this case?

A. I never knew him until his application was presented to the Legislature as an employee.

Q. You don't know what his business is?

A. No, sir: he told me at that time that he was a school teacher, or penmanship.

Q. Is there anything further you desire to state?

A. One thing a little further in regard to Shumway's testimony in regard to that conference; if I remember right he states that I asked if his clerks could be depended upon to keep their mouth shut, and that he closed the door and this meeting was held in secret. I desire to say in regard to that, when I came into the room, Rhodes, Porter and Shumway were all that there were in the room and the door was open when I went into the room, janitors were at work about the hall and committee room; I walked in and found the gentlemen there and talked with them, I think, about five minutes or so, I was present about five minutes; during the time I was present the door was never closed; not a single word was said about his clerks, whether they were in the

room or out of the room; or whether they could be depended upon to keep their mouths shut at any time during the conference.

Q. Then all of that, so far as you are concerned, is a pure fabrication?

A. It is false so far as I know about this conference he alludes to in this committee room, yes.

CROSS-EXAMINATION.

By Mr. Woolworth:

Q. The question about making corrections was about making corrections of the engrossed bill, was it?

A. The first time that the matter was brought to my attention was long before this bill was before the committee; it was in regard to bills in general, and in regard to engrossed bills. The time of this conference was at the time the enrolled bill had come before the Senate and was before the committee.

Q. I am not speaking about the conference, but I am just asking about what wanted to be corrected; it was the engrossed bill that was to be corrected, was it?

A. At the time of the conference or before that?

Q. No, before that; I understand you to say that early in the session the question arose whether corrections could be made?

A. Yes.

Q. Those corrections were to be made in the engrossed bill?

A. Yes.

Q. Before the engrossed bill went from the committee on engrossed and enrolled bills, or before it went back to the House?

A. Before it went to the Senate.

Q. Were these corrections to be made in the engrossed bill after it passed your House or while the bill was in the committee to be engrossed?

A. At the time it was in the committee to be engrossed before it passed the House; that was what I said the duty of this committee was; and after investigating it carefully and giving it mature deliberation I instructed them to that effect.

Q. To correct the merely clerical errors in engrossing the bill before the engrossed bill had been reported by the committee on enrolled and engrossed bills back to the House?

A. Yes.

Q. And the discrepancies to be corrected were between the original and engrossed bills?

A. Yes.

Q. So as to make the engrossed bill the exact copy of the original bill?

A. Yes, with perhaps the exception of misspelled words that occurred in the original bill they should be spelled correctly, with proper capitals—yes, and punctuation.

Q. That was the understanding?

A. Yes.

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Q. Was it not the duty of the committee on engrossed bills always to see that the bill corresponded with the original bill, except in regard to these clerical errors?

A. Yes.

Q. What made it necessary to have any conference about that?

A. This you have referred to was before any conference was called; it was before the railroad bills had been in the hands of the engrossing committee; this conference spoken of by Shumway was the latter part of the session; saying nothing about that there was no conference except the chairman of the committee on engrossed and enrolled bills and Shumway, engrossing clerk, came to me to know what their duties were in regard to these things.

Q. As to correcting errors in the engrossed bills?

A. Yes.

Q. Do you know whether any particular errors in the bill were called to your attention?

A. No, sir, I do not. I treated it in a general way and I gave instructions in regard to no particular bill, but my instructions to Rhodes and Shumway were in regard to bills in general.

Q. Was your attention called to the Senate amendment which begins at line 149 to 165 inclusive, etc., after the bill came back to your House?

A. Not in particular; no, sir; I think it was the amendment that was under consideration at the time of this con-

ference when I was invited to the room, but as I stated I was in the room only about five minutes.

Q. Did you see that amendment?

A. I don't think I did; I don't remember that I did.

Q. Did you ever see it until after the bill had passed both Houses of the Legislature?

A. No, sir, I think not.

Q. Do you know anything about that line being drawn through there?

A. I do not; I never saw it.

By General Hastings:

Q. If I understand you correctly you gave no other, different, or further instructions concerning House Roll No. 33 than was given in reference to all other bills that were considered by the Legislature?

Mr. Woolworth objected to the interrogatory as not proper re-examination, the whole matter having already been gone over by the witness in the examination by Mr. Dilworth.

A. No, sir; my instructions were general, and treated all bills exactly alike; I never gave any particular instructions in regard to this bill or any other bill.

Witness excused.

LINCOLN, March 7, 1894, 10 A. M.

Present:

J. M. WOOLWORTH,

Solicitor for Plaintiffs.

J. L. WEBSTER,

Solicitor for Defendants, Members of the State Board of Transportation.

The taking of testimony is resumed, pursuant to adjournment, as follows, viz:

W. A. DILWORTH, being duly sworn, testifies as follows, viz: (For Defendants.)

DIRECT EXAMINATION.

By Mr. Webster:

Q. State your name?

A. W. A. Dilworth.

Q. Are you the same W. A. Dilworth heretofore examined on behalf of the plaintiffs?

A. I am.

Q. Mr. Dilworth, have you prepared yourself with an estimate or computation showing the number of tons of freight, commonly spoken of as local freight, hauled by the respective railways in the State of Nebraska?

A. Yes, I have.

Q. Have you prepared a statement showing the average amount received by the respective railway companies by way of tariff on tons of freight hauled?

A. Yes, I have, sir.

Q. Have you made a computation, and are you pre-

pared to state the amount, in dollars and cents, received by the respective railway companies for freight hauled within the State of Nebraska by which I mean local freight?

A. Yes, sir.

Q. Have you prepared, and are you prepared to give a statement of the amount of reduction, in dollars and cents, of such total amount received for freight hauled, as would be brought about by the enforcement of the law in controversy in this suit?

A. Yes, I have made an estimate of it.

Q. And have you made like estimates of the amounts received by the respective railway companies for passanger business in the State of Nebraska?

A. Yes.

Q. Have you prepared yourself to be able to speak of the total amount received by the respective railway companies for freight hauled within the limits of the State of Nebraska, including through as well as local freight?

A. Yes.

Q. And have you qualified yourself to speak as to the total amount received by the respective railway companies for both passenger and freight within the limits of the State of Nebraska?

A. Yes.

Q. From that have you also prepared yourself so as to be qualified to speak as to the amount of reduction which would be brought about by the enforcement of the law in controversy?

A. Yes.

Q. I show you a paper purporting to be a tabulated statement covering the subject matters embraced in the previous questions propounded to you, in so far as relates to the Burlington & Missouri River Railroad, the Chicago, St. Paul, Minneapolis & Omaha Railway, the Fremont, Elkhorn & Missouri Valley Railroad, The Union Pacific Railway, the Omaha & Republican Valley Railroad, the St. Joseph & Grand Island Railroad, and the Kansas City & Omaha Railroad, and ask you to state whether that statement has been prepared by you?

A. Yes, it has.

Paper identified as Exhibit (1).

Q. I wish you would state, Mr. Dilworth, whether the computations and data set down in the statement just identified by you are correct statements of the matters and things they purport to represent?

Mr. Woolworth objects to the interrogatory for the reason that it does not appear that the witness is an expert, or competent to testify in this matter.

A. It is as nearly correct as can be made, I think, by any one of the secretaries of the State Board of Transportation.

Q. You had occasion to become familiar with the amount of freight hauled by the respective railroad companies, as well as the income from the freight and passenger traffic of the railroads doing business within the State of Nebraska?

A. Yes.

Q. You may state whether or no the respective railway companies have been accustomed to making reports to your board of the amount of business done by them during the years you have been connected with this board in an official capacity?

A. Yes.

Q. You may state whether or no, if you know, the reports filed with the board by the respective railway companies touching the amount of freight hauled by them and the number of passengers hauled by them, showing also the revenues received by the railway companies for both freight and passenger service are under oath by some officer of the railroad company?

Mr. Woolworth objects, as not the best evidence.

A. Yes.

Q. Are those reports kept on file as part of the public records of your office?

A. Yes.

By Mr. Webster:

I now offer in evidence the statement prepared by the witness, and heretofore identified by him, and marked by the reporter as Exhibit "4".

Mr. Woolworth objects to the introduction of the same as immaterial, irrelevant, and for the further reason that it does not appear that the witness is competent to state the matters of which he is testifying.

Defendant's Exhibit "4."

Estimate of Local Business and the effect of House Roll 33 on the following named Railroads.

	Number of tons hauled locally	Aver'ge am't received for each ton hauled	Total am't received for tons hauled locally	Total am't of reduction caused by H. R. 33	Amount received from Passenger business	Amount received for fr'g't hauled in Nebraska including through and local	Total am't realized on all business done in the State	Per cent. of reduction on all business done in the State by H. R. 33
Burlington & Missouri R. R. in Neb.	574,653	$2.15416	$1,237,884	$365,175	$2,369,714	$5,538,766	$7,908,242	.044
Chicago, St. Paul, Min'pls & Omaha.	65,762	1.87089	123,033	36,294	263,458	472,051	763,509	.047
Fremont, Elkhorn & Missouri Valley.	158,350	2.12633	336,714	99,310	598,219	1,495,468	2,093,687	.047
Union Pacific Railway.....	192,865	2.06498	398,262	117,487	977,264	4,284,793	5,262,057	.022
Omaha & Republican Valley.....	63,999	1.38026	88,335	26,043	305,668	955,626	1,261,294	.022
St. Joseph & Grand Island.....	39,657	.63051	31,004	8,836	71,083	216,395	287,478	.030
Kansas City & Omaha.....	10,823	.61261	6,630	1,889	41,123	125,530	166,653	.011

Q. You may state whether you know the amount of reduction which would be made upon the income of the Chicago, Burlington & Quincy Railroad Company, by which I mean what would be the percentage of reduction upon the entire income of that road for percentage and freight traffic by the enforcement of the law in controversy?

Objected to by Mr. Woolworth as incompetent, irrelevant and immaterial.

A. I have made an estimate of that and it comes to 1.3 per cent.

Q. Have you made a computation of the percentage of reduction which would be brought about upon the total revenue of the Chicago & Northwestern System by the enforcement of the law in controversy?

Objected to as immaterial and irrelevant.

A. Yes, sir.

Q. You may state what such reduction would be?

Objected to as immaterial and irrelevant.

A. Three-tenths of one per cent. is my estimate.

Q. Have you made such a computation as covered by the two last preceding questions with reference to The Union Pacific Railway.

A. I have not completed that yet.

Q. Then you may state as to the other railways, the Missouri Pacific or the Rock Island?

A. No, sir; the Missouri Pacific and Rock Island, their reports are made for the whole system, and it is impossible to determine the amount of freight hauled locally with

any degree of accuracy whatever, and the only way to arrive at that is to take some other road of the state where the mileage is about the same, for instance, the Chicago, St. Paul, Minneapolis & Omaha.

Q. You understand, do you, Mr. Dilworth, that in the exhibit you have put in evidence that the Burlington & Missouri River Railroad in Nebraska is a part of the Chicago, Burlington & Quincy Railroad?

A. They are consolidated, yes, sir.

Q. And you also understand that the Chicago, St. Paul, Minneapolis & Omaha and the Fremont, Elkhorn & Missouri Valley, as set down in the exhibit, are a part of the Chicago & Northwestern System?

A. The capital stock of each road is owned as I understand by the Chicago & Northwestern R. R. Co.

Q. These are the railroads which are set down in the pleadings in behalf of the Chicago & Northwestern system as being a part of that company?

A. Yes, sir.

Q. Then the Omaha & Republican Valley belongs to what company?

A. To The Union Pacific Railway Company.

Q. The St. Joseph & Grand Island belongs to what company?

A. Always has been considered and is a part of the Union Pacific.

Q. The Kansas City & Omaha belongs to what company?

A. Belongs to the St. Joseph & Grand Island, and through that to the Union Pacific.

Q. Now, Mr. Dilworth, have you here a duly certified copy of the returns made by the respective railways within the State of Nebraska to the Auditor of Public Accounts of the State of Nebraska, for the year 1893, showing the amount of rolling stock and other properties therein set down, of the respective railroads?

A. Yes, sir.

By Mr. Webster: I offer the certified copy of these reports in evidence, to be marked as Defendant's Exhibit "5".

Objected to by Mr. Woolworth as immaterial, irrelevant and not properly certified.

Q. The first two pages of this exhibit last offered in evidence, marked "Burlington & Missouri River Railroad in Nebraska," and the next page marked "B. & M. R. R. Company", are a part of the Chicago, Burlington & Quincy Railway Company?

A. Yes, sir.

Q. Have you also, as a part of the report of The Union Pacific Railway Company touching its property so returned to the State Auditor, a letter by Mr. Scribner, Tax Commissioner of the Union Pacific Railway Company, under the certificate of the Auditor of Public Accounts of the State of Nebraska?

A. Yes, sir.

By Mr. Webster: I offer that certified document in evidence, marked Defendant's Exhibit "6".

Objected to by Mr. Woolworth as immaterial and irrelevant.

Q. Now, Mr. Dilworth, from the returns thus made by these respective railway companies, have you prepared a statement showing the amount of rolling stock belonging to these respective roads?

A. Yes, sir.

Q. Have you prepared a statement from the returns made by The Union Pacific Railway Company to the State Auditor, shown by the exhibit heretofore introduced in evidence, showing the amount of rolling stock of railroads belonging to The Union Pacific Railway Company within the State of Nebraska?

A. Yes, sir.

Q. Have you likewise prepared and made up and put on the same statement a valuation upon the different classes of rolling stock of that company?

A. Yes, sir.

Q. You may state, Mr. Dilworth, the basis upon which you have placed the valuation upon the rolling stock?

A. Well, I have taken as one basis the amount of money that they have paid out during the year for different kinds of rolling stock, and the number of different kinds and found about what the average price was as they reported to have paid for it; and, also, from talking with the railroad

men as to the value of rolling stock, and from my knowledge of what kind of rolling stock they had.

Q. In the talks you have had with persons you would call railway men, were they persons connected with and representing the railway company who are parties to this litigation?

A. I do not remember that I have talked with any of these. I think the only talk I have had has been with railroad men at Sioux City.

Q. As to the railway companies who have made reports to your Board as to expenditures for the various classes of rolling stock, have you made your computation upon the basis of what they have reported to you they paid out for purchase money for such rolling stock?

A. Yes, my estimate is to a large extent upon those reports.

Q. And by that do you mean the value of new rolling stock?

A. Yes, sir; what it would cost to buy this rolling stock at the present time.

Q. You mean by that to buy the same quantity of rolling stock new?

A. Yes, sir.

Q. You may state, Mr. Dilworth, what is the total valuation so arrived at of the rolling stock of The Union Pacific Railway Company, within the State of Nebraska?

Objected to as immaterial, irrelevant, and the witness has not shown himself qualified to speak on this subject.

A. $2,273,390.00.

Q. That is what sum of money per mile?

A. In round figures about $4,800 to the mile.

Q. Will you produce the tabulated statement you have prepared upon that point and offer it in evidence, marked Exhibit "7"?

A. Yes, sir.

By Mr. Webster: I offer Exhibit "7" in evidence.

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject.

Exhibit "7."

UNION PACIFIC RAILROAD COMPANY.

1893.

Rolling Stock and Personal Property.

	VALUE OF EACH	TOTAL VALUE
137 Engines	$8,000	$1,003,000
37 Passenger coaches, first class	3,000	111,000
7 Passenger coaches, second class	2,000	14,000
5 Mail cars	2,000	10,000
3 Express cars	2,000	6,000
12 Baggage cars	2,000	24,000
5 Mail, express and baggage cars combined	2,500	12,500
2 Express and baggage cars combined	2,000	4,000
53 Caboose cars	500	26,500
1,622 Box cars	400	648,800
269 Stock cars	350	94,150
610 Flat cars	300	183,000
80 Hand cars	30	2,400

	VALUE OF EACH	TOTAL VALUE
77 Rubble cars	20	1,540
5 Wrecking cars	500	2,500
3 Officers' cars	3,000	9,000
9 Boarding cars	300	2,700
152 Refrigerator cars	700	106,400
3 Derricks	1,500	4,500
2 Pile drivers	500	1,000
8 Snow plows	800	6,400
		$2,273,390

About $4,800 to the mile.

Q. From the same returns made in behalf of the Omaha & Republican Valley Railroad Company to the State Auditor of the amount of its rolling stock, have you prepared a tabulated statement showing the amount of rolling stock owned by that company?

A. Yes, sir.

Q. Have you made a computation upon the like basis of the cost of such rolling stock?

A. Yes, sir.

Q. And has that computation been made from the reports made by that railroad company to the State Board of Transportation of the amount of money it has expended from time to time in the purchase of such rolling stock?

A. I answer that in this way. The Omaha & Republican Valley Railroad has not bought any rolling stock for sometime, but the estimate of all these railroads is made up by getting the average price from different railroads that have bought rolling stock during the last two or three years, and no one road has been taken into consideration,

especially in determining the value of this rolling stock, but all of them have been taken in and the average made by taking all of them into consideration.

Q. By that do you mean you have averaged the price paid by each and all of the respective roads for rolling stock as shown by the reports made to the Board of Transportation?

A. Yes, sir.

Q. On that basis have you prepared the statement of the amount of the value of the rolling stock of the Omaha & Republican Valley Railroad Company?

A. Yes, sir.

Q. Is that also set down in the statement you have prepared showing the amount of rolling stock of that company?

A. Yes, sir.

Q. How much is the total sum thereof?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak upon the subject, and his statement is based upon an incorrect basis.

A. $214,750.00.

Q. That is how much per mile?

A. $518.00.

Q. Now, can you explain or state whether that rolling stock therein set down is sufficient to operate the whole number of miles of the Republican Valley Railroad, to wit, 414 miles?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak upon the subject, and his statement is based upon an incorrect basis.

A. Why I should say that that—I do not know about that, that is the truth of the matter.

Q. Is not this Omaha & Republican Valley Railroad a part of the Union Pacific Railway System?

A. Yes, sir.

Q. Now, what do you know as to whether or not a part of the rolling stock set down in your last previous exhibit, under the head of the Union Pacific Railway Company is not in fact used to make up the deficiency in rolling stock on the Omaha & Republican Valley line?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak upon the subject, and his statement is based upon an incorrect basis.

A. I know as a matter of fact a great deal of their equipment has been on the Omaha & Republican Valley road, that their engines, and their passenger coaches and their box cars have been there.

Q. To whatever extent the rolling stock that is set down in your former exhibit of The Union Pacific Railway Company which is used for the purpose of operating the Omaha & Republican Valley Railroad, would reduce in fact, the amount of rolling stock properly belonging to the Union Pacific, to that extent, would it not?

Objected to by Mr. Woolworth as immaterial and irrelevant, leading, and the witness not having shown himself qualified to speak on the subject, and his statement is based upon an incorrect basis.

A. Yes, sir.

By Mr. Webster: I now offer in evidence the statement prepared by the witness of the amount of rolling stock and the value thereof, of the Omaha & Republican Valley Railroad Company, which is marked Defendant's Exhibit "8".

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject.

Defendant's Exhibit "8."

(Copy.)

OMAHA & REPUBLICAN VALLEY RAILROAD COMPANY.

1893.

Rolling Stock and Personal Property.

		VALUE OF EACH	TOTAL VALUE.
15	Engines	$6,000	$ 90,000
1	Passenger coach, first class	3,000	3,000
2	Mail, express and baggage cars combined	2,500	5,000
1	Caboose car	500	500
213	Box cars	400	85,200
7	Stock cars	350	2,450
72	Flat cars	300	27,600
			$214,750

Mileage in Nebraska, 414.44.
Equipment per mile, $518.

By the witness: I wish to state in regard to this Omaha & Republican Valley road, that they use the equipment of other roads, and I determine that because in their returns or annual reports for the repair of the passenger coaches, for instance, and mail coaches, they expend more for repair every year on passenger coaches than it would be to get a new coach, or two or three.

Q. Are not those items of repair expended by the Omaha & Republican Valley Railroad Company items of repair upon rolling stock belonging to The Union Pacific Railway Company?

Objected to by Mr. Woolworth as immaterial and irrelevant, the witness not speaking from his personal knowledge, but from information derived from the records; not the best evidence and leading.

A. Yes, it must be.

Q. Have you, Mr. Dillworth, a statement prepared from the reports of the St. Joseph & Grand Island Railway Company to the State Auditor of the amount of rolling stock of that company?

A. Yes, sir.

Q. And have you upon the same basis of ascertaining the valuation of rolling stock hereinbefore recited by you, prepared a valuation of the rolling stock of that company?

A. Yes, sir.

Q. And have you set the same down in that statement?

A. Yes, sir.

Q. You may state the value of the rolling stock of that company?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on the subject, and his statement is based on an incorrect basis.

A. $156,150 in this state.

Q. And how much is the mileage in this state?

A. 112.53 miles.

Q. What is the valuation of the rolling stock per mile?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having show himself qualified to speak on that subject, and his statement is based on an incorrect basis.

By Mr. Webster: I offer in evidence the statement of the witness of the rolling stock and the value thereof of the St. Joseph & Grand Island Railway Company, marked Defendant's Exhibit No. "9". (See page 623).

Objected to by Mr. Woolworth as immaterial, irrelevent, and the witness not having shown himself qualified to speak on that subject.

Q. The St. Joseph & Grand Island Railroad Company is a branch of the Union Pacific, or belongs to the Union Pacific Railway System, does it not?

A. Yes, it is so considered, and the Union Pacific owns a large share of the stock.

Defendant's Exhibit No. "9".

ST. JOSEPH & GRAND ISLAND RAILROAD COMPANY.

Rolling Stock and Personal Property.

		VALUE OF EACH.	TOTAL VALUE.
8	Engines	$6,000	$48,000
2	Passenger coaches, first class	3,000	6,000
1	Mail car and coach, combined	2,500	2,500
1	Baggage car, coach and mail combined	2,500	2,500
1	Express and baggage car, combined	2,000	2,000
4	Caboose cars	500	2,000
194	Box cars	400	77,600
22	Stock cars	350	7,700
27	Flat cars	300	7,100
25	Hand and rubble cars	30	750
	Mileage in Nebraska, 112.53.		$156,150
	Equipment to the mile, $1,388.00.		

Q. What do you know about whether or not any portion of the rolling stock of the Union Pacific Railway Company is used for the purpose of operating the St. Joseph & Grand Island Railroad?

A. I have seen rolling stock on that road belonging to them, but I do not think it is used on that road to quite such an extent as it is on the Omaha & Republican Valley Railroad.

Q. Is the Kansas City & Omaha Railway Company also a part of The Union Pacific System?

A. Yes, sir, so considered.

Q. Have you prepared a statement of the amount of rolling stock and the value thereof of the Kansas City & Omaha line, using the same basis as hereinbefore recited by you?

A. Yes, sir.

Q. You may state the value of the rolling stock of the Kansas City & Omaha line per mile?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject, and his statement is based on an incorrect basis.

A. $413.00 per mile.

Q. You may state the amount of mileage of that road in the state?

A. 193.38 miles.

Q. And you may state the total value of its rolling stock?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject, and his statement is based on an incorrect basis.

A. $273,390.00.

Q. Now, do you know whether or not any part of the rolling stock belonging to The Union Pacific Railroad Company is also used in the operation of the Kansas City & Omaha line?

A. Well, I have seen Union Pacific cars on this road,

and I think some passenger coaches are used on this road between Fairfield and Stromsburg or Omaha.

Mr. Webster next offers in evidence the tabulated statement prepared by the witness of the rolling stock and the value thereof, of the Kansas City & Omaha Railway Company, which is marked Defendant's Exhibit "10".

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on the subject.

The following is a copy of said Defendant's Exhibit "10":

Defendant's Exhibit "10".

KANSAS CITY & OMAHA RAILROAD COMPANY.

1893.

Rolling Stock and Personal Property.

		VALUE OF EACH	TOTAL VALUE.
14	Engines	$6,000	$84,000
4	Passenger coaches, first class	3,000	12,000
2	Passenger coaches, second class, and mail combined	2,000	4,000
2	Mail cars, passenger and coach combined	2,500	5,000
3	Express and baggage cars, combined	2,000	6,000
8	Caboose cars	500	4,000
325	Box cars	400	130,000
38	Stock cars		13,300
47	Flat cars		14,100
43	Hand cars / Rubble cars		1,290
			$273,390

Mileage in Nebraska, 193.38.
Equipment to the mile, $1,413.

Q. Have you prepared a statement which would show the total mileage of The Union Pacific Railway Company within the State of Nebraska, by which I mean, including the Union Pacific line proper, including the Omaha & Republican Valley Railroad, the St. Joseph & Grand Island, and the Kansas City & Omaha, and including the sum total of rolling stock belonging to that whole number of mileage, and the sum total of the valuation thereof, so as to ascertain the relative value per mile of the entire equipment of The Union Pacific System within the State of Nebraska?

A. I do not believe I have that prepared.

Q. Will you prepare such a statement to be attached to your testimony, marked Defendant's Exhibit "11"?

A. I will do so.

The following is a copy of Defendant's Exhibit "11":

Defendant's Exhibit "11."

Amount of rolling stock in the State of Nebraska belonging to the Union Pacific Railway Company, as returned to the Auditor of Public Accounts of said State, for taxation, for the 1893, and estimate of the value of same:

	NO. OF MILES	VALUE OF EQUIPMENT
Union Pacific (Main Line).....	467.48	$2,273,390
Omaha & Republican Valley....	414.45	214.750
St. Joseph & Grand Island.....	112.53	156.150
Kansas City & Omaha.....	193.68	273.390
Total.....	1,188.14	$2,917,680
Average amount of equipment per mile.....		$2,456

Q. Mr. Dilworth, have you prepared a tabulated statement from the like source of information of the amount of

rolling stock and the value thereof per mile of the Chicago, Burlington & Quincy Railroad Company in the State of Nebraska?

A. Yes, sir.

Q. And what do you find to be the sum total of the valuation of the rolling stock of that company?

Objected to by Mr. Woolworth as immaterial and irrelevant, and the witness not having shown himself qualified to speak on that subject, and his statement is based on an incorrect basis.

A. $4,211,350.

Q. And how much is that per mile?

Objected to by Mr. Woolworth as immaterial and irrelvant, and the witness not having shown himself qualified to speak on that subject, and his statement is based on an incorrect basis.

A. $1,866.00.

By Mr. Webster: I now offer the tabulated statement referred to in evidence, marked as Defendant's Exhibit "12".

Objected to by Mr. Woolworth as immaterial and irrelevant, and the witness not having shown himself qualified to speak on that subject.

The following is a copy of Defendant's Exhibit "12":

950

Defendant's Exhibit "12".

(Copy.)

C., B. & Q. RAILROAD COMPANY IN NEBRASKA.

1893.

Rolling Stock and Personal Property.

		VALUE OF EACH	TOTAL VALUE
246	Engines	$8,000	$1,168,000
120	Passenger coaches, first class	3,000	360,000
14	Mail cars	2,000	28,000
7	Express cars	2,000	14,000
20	Baggage cars	2,000	40,000
16	Mail, express and baggage cars combined	2,500	40,000
12	Express and baggage cars combined	2,000	24,000
108	Caboose cars	500	54,000
3314	Box cars	400	1,325,600
1347	Stock cars	350	471,450
2014	Flat cars	300	604,200
2	Wrecking cars	1,500	3,000
1	Pay car	3,000	3,000
2	Officers' cars	3,000	6,000
61	Refrigerator cars	700	46,900
2	Derricks	1,500	3,000
3	Pile drivers	1,000	3,000
2	Steam shovels	3,000	6,000
1	Ice flanger	1,200	1,200
1	Steam trolley		
1	Ditching machine	3,000	3,000
2	Dining cars	3,500	7,000
			$4,211,350

Mileage in Nebraska, 2,256.15.
Equipment to the mile, $1,866.

Q. Mr. Dilworth, have you prepared a like tabulated statement representing the rolling stock and value thereof of the Fremont, Elkhorn & Missouri Valley Railroad Company?

A. Yes, sir.

Q. You may state what the mileage of that road is in the State of Nebraska?

Objected to by Mr. Woolworth as immaterial and irrelevant, and the witness not having shown himself qualified to speak on that subject, and the statement of the witness is based on an incorrect basis.

A. 980.49 miles.

Q. What is the total value of the rolling stock?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject, and the statement of the witness is based on an incorrect basis.

A. $1,632,532.

Q. The equipment per mile averages what?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject, and the statement of the witness is based on an incorrect basis.

A. $1,665.00.

By Mr. Webster: I now offer in evidence the

tabulated statement last above referred to, marked Defendant's Exhibit "13".

Objected to by Mr. Woolworth as immaterial and irrelevant, and the witness not having shown himself qualified to speak on that subject.

The following is a copy of Defendant's Exhibit "13".

Defendant's Exhibit "13."

(Copy.)

FREMONT, ELKHORN & MISSOURI VALLEY RAILROAD COMPANY.

1893.

Rolling Stock and Personal Property.

		VALUE OF EACH.	TOTAL VALUE.
70	Engines	$6,000	$ 420,000
23	Passenger coaches, first class	3,000	69,000
8	Passenger coaches, second class	2,000	16,000
2	Mail cars	2,000	4,000
5	Baggage cars	2,000	10,000
8	Mail, express and baggage cars, combined	2,500	20,000
46	Caboose cars	500	23,000
1847	Box cars	400	738,800
529	Stock cars	350	185,150
479	Flat cars	300	143,700
155	Hand cars	30	4,650
141	Rubble cars	20	282
1	Wrecking car	500	500
15	Velocipedes	10	150
1	Officer's car	3,000	3,000
6	Boarding cars	300	1,800
1	Derrick	1,500	1,500
1	Pile driver	1,000	1,000
1	Snow plow, rotary	5,000	
			$1,632,532

Nebraska mileage, 980.49.

Equipment to the mile, $1,665.00.

Q. The words, "To the Auditor of Public Accounts of the State of Nebraska," are no part of your statements, are they?

A. No, sir; they are just on the blanks gotten up by the Auditor, and I used them for convenience.

Q. It appearing that those words "To the Auditor of Public Accounts of the State of Nebraska" are no part of your tabulated statements, I suggest that those words and such other words in print as are no part of your tabulated statements be stricken out, and that you draw a line through them so they may be no part of the papers as recorded?

A. Yes, I will do that.

Q. Now, Mr. Dillworth, have you prepared a like tabulated statement of the rolling stock and the value thereof, of the Chicago, St. Paul, Minneapolis & Omaha?

A. Yes, sir.

Q. You may state the amount of the total valuation?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak upon that subject, and his statement is based on an incorrect basis.

A. $243,850.

Q. And the mileage of the road in the State of Nebraska?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on the subject, and his statement is based on an incorrect basis.

A. 260.54 miles.

Q. And the value of the equipment per mile?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on the subject, and his statement is based on an incorrect basis.

A. $932.00.

The statement last referred to is offered in evidence by the State Board of Transportation, marked Defendant's Exhibit "14"

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject.

The following is a copy of Defendant's Exhibit "14."

Defendant's Exhibit "14".

CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILROAD COMPANY.

1893.

Rolling Stock and Personal Property.

	VALUE OF EACH	TOTAL VALUE.
18 Engines	$6,000	$108,000
10 Passenger coaches, first class	3,000	30,000
7 Passenger coaches, second class, combination	2,000	14,000
2 Mail cars	2,000	4,000
1 Chair car	3,000	3,000
3 Baggage cars	2,000	6,000
1 Mail, express car combined	2,000	2,000

		VALUE OF EACH	TOTAL VALUE
10	Caboose cars	500	5,000
100	Box cars	400	40,000
25	Stock cars	350	8,750
25	Flat cars	300	7,500
47	Hand cars	30	1,410
47	Rubble cars		940
2	Wrecking cars	500	1,000
1	Pile driver	500	500
25	Coal cars	300	7,500
1	Flanger	1,200	1,200
1	Ditcher	3,000	3,000
			$243,850

Nebraska mileage, 260.54.
Equipment per mile, $932.00.

Q. The last two exhibits, including the Fremont, Elkhorn & Missouri Valley and the Chicago, St. Paul, Minneapolis & Omaha lines, constitute a part of the Northwestern System, do they not?

A. Yes, sir.

Q. Have you prepared a like tabulated statement upon the basis of information hereinbefore recited by you, of the Missouri Pacific Railway Company?

A. Yes, sir.

By Mr. Webster: I offer that tabulated statement in evidence, which is marked Defendant's Exhibit "15."

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself qualified to speak on that subject.

The following is a copy of Defendant's Exhibit "15":

Defendant's Exhibit "15."

(Copy.)

MISSOURI PACIFIC RAILROAD COMPANY.

1893.

Rolling Stock and Personal Property.

	VALUE OF EACH.	TOTAL VALUE.
11 Engines	$6,000	$ 66,000
5 Passenger coaches, first class	3,000	15,000
4 Passenger coaches, second class	2,000	8,000
1 Mail car	2,000	2,000
1 Express car	2,000	2,000
1 Baggage car	2,000	2,000
2 Mail, express and baggage cars, combined	2,500	5,000
5 Caboose cars	500	2,500
150 Box cars	400	60,000
79 Stock cars	350	27,650
110 Flat cars	300	33,000
30 Hand cars	30	900
20 Rubble cars	20	400
1 Wrecking car	1,500	1,500
3 Velocipedes	10	30
1 Boarding car	300	300
1 Derrick	1,500	1,500
1 Pile driver	1,000	1,000
1 Snow plow	800	800
		$229,580

Nebraska mileage, 348.46.
Equipment per mile, $658.00.

Q. Mr. Dilworth, have you in a general way a familiarity with the rolling stock that is used on these respective lines of road?

A. Yes, sir.

Q. From your knowledge of these roads and of the rolling stock thereon, what would you say as to the probable extent of depreciation in value of such stock by reason of use and age, wear and tear?

Objected to by Mr. Woolworth, as it does not appear that the witness is competent to speak on this subject, and immaterial and irrelevant.

A. I should think that it would be depreciated about one-fourth anyway.

Q. Thence the present value of the rolling stock would be about how much less in your opinion than the amounts set down in your tabulated statements?

A. The depreciation by wear and use would be about one-fourth, I think.

Q. One-fourth less?

A. Yes, sir.

Q. Do you know of the various branches or lines of road that enter into and form a part of the Fremont, Elkhorn & Missouri Valley Railroad Company?

A. I think that the Fremont, Elkhorn & Missouri Valley Railroad Company is all one corporation from the start.

Q. Thence from another point of view, do you know the various lines that belong to that company, giving the termini and length thereof, and have you in your possession a statement which will show the length of the lines and total mileage of the Fremont, Elkhorn & Missouri Valley Railroad?

A. Yes, I have it; it is not added up, though.

Q. Do you know whether or not any of these respective lines of railroad within the State of Nebraska, at or about the time of their construction received aid in the form of municipal aid bonds?

A. Yes, sir.

Q. Have you prepared a statement showing the amount of municipal aid bonds voted and given to these various lines of railroad, showing the counties in which such aid bonds were voted, as well as the date thereof, and the amount thereof?

A. Yes, sir, so far as it can be obtained from the bonds that have been registered. There is probably some bonds that have been never registered that were issued to the railroads that there is no record of, except in the individual county.

Q. Then, so far as there exists any record, you say you have included in such statement?

A. Yes, sir; that is recorded in the state.

Q. If there are other bonds, it would be so much in addition to what you have stated?

A. Yes, sir.

Q. Then you have not undertaken to include in your statement any bonds except those of which there is a record?

A. No, sir.

Q. And where may such original records be found?

A. Where I got these, from the bond register of the Secretary of State's office.

Q. Did you yourself make a personal inspection of the record?

A. Yes, I got this individually, by myself.

Q. So that you know personally, that what is set down here is a correct statement from the official record?

A. Yes, sir.

By Mr. Webster:

I now offer the statement produced by the witness in evidence, marked Defendant's Exhibit "16."

Objected to by Mr. Woolworth as immaterial, irrelevant and not the best evidence.

Q. Will you cause to be computed the amount of these bonds thus going to the respective companies, and make the computation so as to show what would be the whole number of bonds that went to the Chicago & Northwestern System, and such as would go to the branches of the Union Pacific or other roads. I observe in looking at this some of these are simply for the subdivisions which have been absorbed in other companies. Will you be kind enough to prepare a short statement to be added to this that will show such summary?

Objected to by Mr. Woolworth as immaterial, irrelevant and not the best evidence.

A. I will.

Q. Will you hand that summary to the officer taking your deposition, to be attached thereto, marked Defendant's Exhibit "17."

A. Yes, sir.

The following is a copy of defendant's Exhibit "17."

Defendant's Exhibit "17."

Amount of municipal bonds received from the different municipalities of the State of Nebraska, by the following named railroads, to aid in their construction in said state.

Union Pacific Railway Company	$ 915,700
Chicago, Burlington & Quincy Railroad	396,000
Chicago & Northwestern	540,500
Chicago, Rock Island & Pacific	195,000
Missouri Pacific	310,000
Total	$2,357,200

Q. Mr. Dilworth, can you state the number of acres of land which were granted to The Union Pacific Railway Company by which I mean that part of the main line of the road within the State of Nebraska?

Objected to by Mr. Woolworth as immaterial, irrelevant, and it does not appear that the witness has any knowledge on this subject.

A. It was granted 12,800 acres per mile of line, and for Nebraska it would be 5,983,232 acres.

Q. Are you familiar with the lines which were included within that grant which were within the limits of the State of Nebraska?

A. Yes, as far west as Sidney.

Q. That is how far west from the Missouri River?

A. It is 400 miles, very near.

Q. You may state whether you have a familiarity with the value of those lands from the Missouri River westward toward, or as far as Sidney?

A. Yes, sir; I think I have an acquaintance with the value of them to some extent.

Q. You may state, then, what would be the fair average value of the five million and more acres granted to the line within the State of Nebraska?

Objected to by Mr. Woolworth as immaterial, irrelevant, the witness not having been shown to have such knowledge of the matter as renders him competent to testify on this subject.

A. Well, at what time, now?

Q. First give that value at the present time, and then that value back at as remote a period as you can give, and if you can, back to the date when the road was constructed?

A. At the present time that land is worth easily from $10 to $12 an acre, but when I first began to know it, along in 1873 and 1874, why it was worth anywhere from $4 to $5 an acre, on an average clear through the state.

Q. Do you know of the number of acres of land which had been sold by the Union Pacific up to December, 1878?

A. I know from reading the report of the commissioner of railroads of the general government, in his report.

Q. By referring to that report for the purposes of refreshing your memory, you may state, if you can, the number of acres which had been sold up to December 31, 1878?

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence, and the witness has not shown himself competent to speak upon the matter of his own knowledge, and is simply giving the figures from a mere unauthenticated book.

A. 1,539,296.98 acres.

Q. Can you, from the same source of information, state the amount of money realized from those sales?

A. Yes, sir.

Q. State the amount.

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence, and the witness has not shown himself competent to speak upon the matter of his own knowledge, and is simply giving the figures from a mere unauthenticated book.

A. $4,794,174.15.

Q. Can you, by referring to the same document, state the average price per acre of such sales, and if so, state it?

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence, and the witness has not shown himself competent to speak upon the matter of his own knowledge, and is simply giving the figures from a mere unauthenticated book.

A. Yes, sir; $5.07.

2438
963

Q. You may state now what is the document that you referred to for this information?

A. A document that I found in the state library, and is entitled, "A Miscellaneous Document, 45, Part 4 of the 47th Congress, 2nd Session."

Q. And on what page of the book did you find this statement?

A. 776 and 777, running across the pages in a line.

Q. And at that time, from the same source of information, are you able to state the number of acres of the land grant then remaining unsold, and if so, state the amount?

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence, and the witness has not shown himself competent to speak upon the matter of his own knowledge, and is simply giving the figures from a mere unauthenticated book.

A. Yes, sir; 10,406,703 acres.

Q. In the last estimate or statement of numbers of acres remaining unsold, state whether or not that includes the land grant for the line of the road west of Nebraska as well?

A. Yes, sir.

Q. You may state, if you can, the total number of acres of the entire land grant to the Union Pacific proper?

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence, and the witness has not shown himself competent to speak upon

the matter of his own knowledge, and is simply giving the figures from a mere unauthenticated book.

A. 12,000,000 acres; I think a few acres over that.

Q. That, then, does not include any land grant that may have gone to the Kansas Pacific line?

A. No, sir.

Q. Nor to the Central Branch. Will you state, according to your basis of computation, about what was the value of that land grant within the State of Nebraska per mile of road within the State of Nebraska?

Objected to by Mr. Woolworth as immaterial, irrelevant, the witness not having shown that he has any personal knowledge of the matter.

A. 12,800 per mile at $4.50, average price, would be $57,600.

Q. State when was the date taken by you as a basis of the computation of valuation per mile of the land grant?

A. When I first became acquainted with the land; about 1873 or 1874.

Q. Now, in addition to the land grant per mile, state the amount of the Government loan to the railroad company, or the Government aid in money per mile?

Objected to by Mr. Woolworth, the witness not having shown himself competent to speak from any personal knowledge; immaterial, irrelevant.

A. I can give you the total in round figures for the Union Pacific within this state.

Adjourned until 2 o'clock P. M.

LINCOLN, March 7, 1894, 2 P. M.

The further taking of testimony in behalf of defendants is resumed as follows, viz:

CONTINUATION OF DIRECT EXAMINATION OF MR. DILWORTH.

By Mr. Webster:

Q. On the land grant question, I pass next to the Chicago & Northwestern System, and ask you to state, if you can, the amount of land granted to that part of the Northwestern System known as the Sioux City & Pacific?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself able to speak from any personal knowledge of the matter.

A. I get that from this document, already referred to as belonging to the report of Congress, as 600,000 acres.

Q. And have you information yourself as to the value of that land grant, and if so, state what you know on that subject?

A. That is mostly over in Iowa, and I know nothing about it.

Q. Well, you may state, if you can, whether you have sufficient knowledge of the lands in Iowa as to form an opinion whether they would be worth more or less than the land grant of the Union Pacific in Nebraska?

Objected to by Mr. Woolworth as immaterial, irrelevant, and it not appearing that the witness is competent to testify on that subject.

A. They are worth more over there than they are here.

Q. Can you state the number of miles of road to which that 600,000 acres of land should be applied?

Objected to by Mr. Woolworth as immaterial, irrelevant, and it not appearing that the witness is competent to testify on that subject.

A. One hundred and nine miles of road, I believe it is, direct to that road granted.

Q. In addition to this land grant of 600,000 acres for that 109 miles, did that line receive any aid from the government, and if so, state the amount of that?

Objected to by Mr. Woolworth as immaterial, irrelevant, and it it not appearing that the witness is competent to testify on that subject.

A. Yes, sir; it is one of the bond aided roads; the amount was $1,628,000.

Q. That would be about how much per mile?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. Over $10,000 per mile, nearly $16,000, I guess, per mile.

Q. In addition to the Sioux City & Pacific, what other lines constituted a part of the Chicago, St. Paul, Minneapolis & Omaha line?

A. Well, there is the St. Paul & Sioux City, the Omaha & Northwestern, the old road, and another road

running west from Emerson there, I forget the name of it, and a little branch that was organized in later years running from Wakefield up north about twenty-five miles. Yes, the Sioux City & St. Paul, and St. Paul & Sioux City, and Chicago, St. Paul & Minneapolis.

Q. Now, can you state the amount of the land grant received by the Sioux City & St. Paul, and if so, state the amount of the land grant to that company?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. 524,800 acres.

Q. Can you state the value of those lands per acre, if so, state?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. Only from what they are reported as having received, and that was $6.51 per acre.

Q. And what report of that company did you refer to as the basis of your answer?

A. I get this information from Poor's Annual Railroad Manual.

Q. What is the mileage of the Sioux City & St. Paul?

A. I would have to go back and look at that; I have not got that; I think that it is set up in our pleadings.

Q. Can you state whether the St. Paul & Sioux City received a land grant, and, if so, state?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. It received 1,010,000 acres.

Q. What is the value of that land per acre?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. They report $5.27 per acre.

Q. Did the Chicago, St. Paul, Minneapolis & Omaha receive a land grant, and, if so, state what was the amount?

Objected to by Mr. Woolworth as immaterial, irrevelant, and the witness not having shown himself competent to testify on that subject.

A. 999,983 acres.

Q. These roads last mentioned by you, constituting a part of The Chicago, St. Paul, Minneapolis & Omaha, is a line that constituted a part of the Northwestern System, is it not?

A. Yes. sir.

Q. In addition to that, can you state as to whether or not the Fremont, Elkhorn & Missouri Valley Railroad Company received any land grant?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. They received some lands from the State of Nebraska, and I have been unable to find my memoranda in

regard to that, but the amount was accurately set out in the answer that we filed. I think I remember of picking it out at the time, but I have been unable to get that.

Q. In addition to that you have already mentioned, can you state whether any other roads entering into the Chicago & Northwestern System received any land grant?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. I think the Chicago & Northwestern System of itself received a land grant of something like—

Q. You may state the amount of such land grant to the Chicago & Northwestern proper?

Objected to by Mr. Woolworth as immaterial, irrelevant and the witness not having shown himself competent to testify on that subject?

A. In Michigan it received 622,271 acres; in Wisconsin, 359,549 acres; Minnesota, 727,940 acres; Dakota, 443,313 acres, making a total of 2,153,073 acres.

Q. Now can you mention any other lines of road which have entered into and constitute part of the Chicago & Northwestern System, which received a land grant, and if so, proceed to state?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

Q. The road known as the Omaha & Northwestern constituted a part of what line?

A. The Chicago, St. Paul, Minneapolis & Omaha, and through that to the Chicago & Northwestern.

Q. Did that line receive any land grant from the State of Nebraska, and if so, in what amount?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himself competent to testify on that subject.

A. I do not know as to that, whether they did or not; I think that was built before the state gave the land grant to those roads.

Q. Then, I will ask you to prepare a statement which will summarize the amount of land granted to these respective roads, in the form of a table, giving the name of the road, Chicago & Northwestern, main line, and below that the subdivisions which enter into and constitute a part of it, including the Fremont, Elkhorn & Missouri Valley, and the Chicago, St. Paul, Minneapolis & Omaha, etc., and which will show a footing of the total amount of the land grant, and the value per acre, and in the third column the value of such land grant per mile of road, including in such table the Chicago & Northwestern, the Union Pacific, the Chicago, Burlington & Quincy, the Missouri Pacific, and the Rock Island, such tabulated statement to be attached to your deposition as Defendant's Exhibit "18"?

Objected to by Mr. Woolworth as immaterial, irrelevant, and the witness not having shown himhimself competent to testify on that subject.

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Defendant's Exhibit "18."

Number of Acres of Land Granted by the Federal and State Governments to the following named Railroad Companies to Aid in the Construction of Their Lines of Road.

	LAND IN NEBRASKA	ELSEWHERE	TOTAL FOR SYSTEM
CHICAGO, BURLINGTON & QUINCY SYSTEM.			
B. & M. R. R. R. Co. (in Iowa)		948,643	
B. & M. R. R. R. Co. (in Neb.)	3,512,960		4,461,603
CHICAGO & NORTHWESTERN SYSTEM.			
C. & N. W.		2,153,073	
S. C. & P.		600,000	
F., E. & M. V.	100,030		
S. C. & St. P.		524,800	
St. P. & S. C.		1,010,000	
C., St. P. & M.		999,983	
O. & N. W.	80,485		
C., C. & B. H.	100,000		5,568,341
UNION PACIFIC SYSTEM.			
Union Pacific	5,983,232	6,016,768	
Kansas Pacific		600,000	
Denver Pacific		1,100,000	
St. Joseph & Western		1,700,000	20,800,000
MISSOURI PACIFIC SYSTEM.			
Central Branch		245,166	
Cairo & Fulton		1,319,196	
South-West Branch		1,161,235	
St. L. & I. M. & S.		4,106,647	6,832,244
CHICAGO, ROCK ISLAND & PACIFIC SYSTEM.			
Mississippi & Missouri		1,261,181	1,261,181

CROSS-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Dilworth, I wish to call your attention to the first exhibit introduced in the course of your examination. I see you have one column entitled, "Number of tons hauled locally;" what do you mean by that expression "locally?"

A. That is where it starts and ends within the state.

Q. And I notice another column where you say, "Amount received for freight hauled in Nebraska, including through and local." Please explain what you mean by the words "through and local" there?

A. In that column the word local has the same meaning, that is, it includes all freight that commences and ends within the state, and also all other freight that is hauled by the railroad company in the State of Nebraska, regardless of its destination or origin.

Q. Well, this last item; you don't mean to say that includes freight that begins and ends in the state?

A. Also, as well as the other.

Q. You explain the local first, and then you give a definition of through which includes beginning and ending in this state; you don't mean that?

A. I mean that column contains both items, both freights, both kinds of freight.

Q. That is freight which is hauled through the state, freight that begins in the state and goes out of the state, freight that begins out of the state and comes into the state, and freight which begins and ends in the state?

A. Yes, sir.

Q. I see further in the last column, the heading, "per cent of reduction on all the business done in the state by House Roll 33", and you give that in cents, as I understand it, am I right?

A. Yes, that is the per cent.

Q. Now, that is the per cent. of the total amount realized on all business done in the state, is it?

A. Yes, sir.

Q. I notice that you give as the per cent. of reduction on all business done in the state by the Burlington & Missouri, as .044, and the per cent. of reduction on all business done by the Union Pacific as .022, will you explain the very great discrepancy between those two items?

A. Yes, because the Union Pacific, I think, received a less amount per ton on an average than the Burlington, one thing; and then, another is that the Union Pacific, that is the main line, does a large amount of through business as compared with its entire business.

Q. You mean to say that the Union Pacific receives less for the business that begins and ends in the state than the Burlington does?

A. I do not mean to say that. I mean that it receives a less average per ton for freight hauled than the B. & M.

Q. Is it not because it does such a very heavy through business?

A. No; it is not so much that as because the average distance hauled is less than that of the B. & M. It is my

recollection that the average distance haul is less on the Union Pacific than it is on the B. & M., and therefore, the B. & M. would receive more on an average for each ton hauled than the other road.

Q. Let us take another instance, the Omaha & Republican Valley appears to suffer a reduction under the bill of .022, how do you account for the difference between the Burlington and the Omaha & Republican Valley?

A. Because the rate or per cent. of business affected by the Newberry bill is less than it is on the Burlington; the Omaha & Republican Valley have a larger per cent. if I recollect right, of grain shipment than the Burlington as according to its entire business.

Q. That goes out of the state, does it not?

A. Yes; but it is part of the business that is done in the state.

Q. Is it not a fact, Mr. Dilworth, that the hauls of the Union Pacific are longer than they are on the Burlington?

A. I think, since you call my attention to it, I believe it is. My recollection is on the Union Pacific the average haul is over 200 miles, and on the Burlington 159 miles, that is my recollection.

Q. So you were mistaken in the explanation you gave?

A. If that was the case, and since I reflect on that, I think the last statement is correct.

Q. Then, is not the difference caused by the fact that

there is such a large per cent. of the Union Pacific which is hauled a great distance and goes out of the state?

A. Well, that is, it may be caused by what we term through business that goes clear through the state.

Q. Have you made up a tabulated statement giving the estimate of local business and the effect of House Roll 33 for the year ending June 30, 1891.

A. No, sir; this is the only year, June 30, 1892.

Q. Can you make such a table?

A. I can if you give me time.

Q. How long will it take you?

A. Why, I think, Mr. Woolworth, I could get it done if I could spend all my time at it, in probably a couple of days.

Q. Have you made any such table for the year ending June 30, 1893?

A. No, sir?

Q. You could make out such a table for that year just as well as for 1892 and 1891, could you not?

A. Yes, sir.

Q. Why did you make it out for the year ending June 30, 1892, and not for June 30, 1893?

A. For the reason that I had made out an estimate of the per cent. of local business done by the railroads in the state for 1892, and it saved a great deal of labor by having that per cent. in front of me, and my understanding had been that most of the evidence that has been produced has referred

to the year 1892, and for that reason I had no other year in my mind.

Q. I will ask you to make these two tables, for 1891 and 1893, and annex it to your testimony, will you do so?

A. I will do so; yes, sir.

The following is the table presented to the master by Mr. Dillworth in compliance with the request of counsel for complainants, which said tabulated statement is marked Exhibit "19", of which the following is a copy.

Exhibit "19."

Estimate of Local Business and the effect of House Roll 33 on the following named Railroads for the years ending June 30, 1891 and 1893.

	Number of tons carried locally.	Aver'ge am't received per each ton.	Total am't received per ton carried locally	Total am't of reduction caused by H. R. No. 33	Amount received from Passenger business.	Amount received from frgt. carried in Nebraska including local and through.	Total am't received on all business done in the State.	Per cent of reduction on all business done in the State by H. R. 33
1891.								
B. & M. R. R. R. in Neb	538,824	$1.98	$1,066,871	$314,726	$2,321,983	$3,942,078	$6,264,061	.05
C., St. P., M. & O..	64,496	1.72	110,933	37,725	225,264	506,470	731,734	.044
F., E. & M. V.....	141,056	2.47	348,408	102,780	876,583	1,969,242	2,845,825	.036
U. P. Ry.....	152,028	1.83	278,211	82,072	1,509,331	3,791,849	5,301,108	.015
O. & R. V.....	61,448	1.23	75,581	22,296	311,130	580,834	891,964	.025
St. J. & G. I.....	25,078	.87	21,817	6,436	86,036	178,529	264,565	.024
K. C. & O.....	8,743	.77	6,732	1,985	41,837	67,946	109,783	.018
1893.								
B. & M. R. R. R. in Neb	583,294	$2.13	$1,242,416	$366,512	$2,581,564	$5,973,356	$8,554,920	.042
C., St. P., M. & O..	78,753	1.81	142,542	42,049	267,535	650,109	917,644	.045
F. E. & M. V.....	177,804	2.26	424,437	125,208	816,239	2,237,044	3,053,283	.041
U. P. Ry.....	220,061	1.88	413,714	122,045	1,551,877	4,313,204	5,865,081	.020
O. & R. V.....	68,237	1 18	80,519	23,753	332,497	887,616	1,220,113	.019
St. J. & G. I.....	50,452	.67	33,802	9,971	99,396	263,516	362,912	.027
K. C. & O.....	15,484	.61	9,445	2,786	41,667	135,824	177,491	.015

Q. Are you able to state how many tons hauled one mile were hauled by any one of these roads for the year ending June 30th, 1892?

A. I cannot state it from memory, they run away up into millions, and I cannot state it from memory.

Q. Will you make a further table showing the number of tons hauled one mile for 1891, 1892 and 1893, on each one of these roads?

A. Yes, sir.

Q. Giving the separate items of all the business in the State of Nebraska, that is to say through, beginning in and ending out, beginning out and ending in the state, and beginning in and ending in the state?

A. You are asking something now that is almost impossible to separate.

Q. Make it as well as you can, Mr. Dilworth, I am willing to take the figures you make, I think if you make a mistake it will be unintentional, and we will have an opportunity to correct it?

A. I will make it as well as I can, but those different items it will be impossible to separate from anything I have on hand or can get hold of, and I doubt if the railroad people can separate it themselves.

Q. You can give the number of tons hauled one mile in this state?

A. Yes, sir; I can do that.

Q. Incorporate into your table as much of this information as you can, and you will place me under great obli-

gations to you. I hope you can do it for half of the year 1893?

A. No. sir; I have no way of separating it; it is for the entire year.

The following is the table presented to the master by Mr. Dilworth in compliance with the request of counsel for complainants, which said tabulated statement is marked Exhibit "20," of which the following is a copy:

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Exhibit "20."

Tons carried, Tonnage per Mile and Percentage of Expenses for Years ending June 30, 1891, 1892 and 1893 (Nebraska).

Name of Road.	No. of tons carried locally.	No. of tons of Interstate Freight carried.	No. of tons of local Freight carried 1 Mile	No. of tons of Interstate Freight carried 1 Mile.	Total No. of tons local & Interstate Freight carried 1 Mile.	Total No. of Passengers local and Interstate carried 1 Mile	Percentage of expenses to earnings.
1891.							
B. & M. R. R. in Nebraska	538,824	1,448,229	73,075,310	196,415,962	269,491,272	69,594,747	66.24
C., St. P., M. & O.	64,496	228,671	10,267,118	36,397,629	46,664,747	7,403,263	70.78
F., E. & M. V.	141,056	654,400	21,863,680	101,644,999	123,508,679	24,898,729	49.87
U. P. Ry.	152,028	1,908,845	28,908,124	362,966,694	391,874,818	66,072,597	68.94
O. & R. V.	61,448	409,270	4,579,104	30,499,041	35,078,145	10,295,137	120.26
St. J. & G. I.	25,078	178,169	1,497,658	10,640,979	12,138,637	2,308,918	96.44
K. C. & O.	8,743	78,694	403,751	3,634,082	4,037,833	912,210	99.54
1892.							
B. & M. R. R. in Nebraska	574,653	1,996,437	91,139,965	316,552,193	407,692,158	70,038,243	64.23
C., St. P., M. & O.	65,762	264,403	11,028,287	44,321,384	55,349,671	8,833,405	65.96
F., E. & M. V.	158,350	846,312	24,069,200	128,425,903	152,495,103	21,874,987	70.71
U. P. Ry. Co	192,865	1,882,112	42,970,322	419,300,773	462,271,095	56,926,269	56.44
O. & R. V.	63,999	628,351	4,659,127	45,745,647	50,404,774	10,058,442	93.12
St. J. & G. I.	39,657	303,550	2,005,851	15,355,015	17,360,866	2,472 538	74.23
K. C. & O.	10,823	194,089	481,515	8,635,016	9,116,531	864,030	75.19
1893.							
B. & M. R. R. R. in Nebraska	583,294	2,221,005	93,793,675	357,131,753	450,925,428	83,091,418	65.51
C., St. P., M. & O.	78,753	279,218	12,848,551	45,554,417	58,402,968	9,074,093	64.58
F., E. & M. V.	187,804	806,158	26,855,972	114,511,328	141,367,300	23,209,212	53.66
U. P. Ry.	220,961	2,068,568	45,948,736	431,949,561	477,898,297	63,422,117	58.51
O. & R. V.	68,237	683,868	4,257,988	42,706,207	46,964,285	11,028,131	94.14
St. J. & G. I.	50,452	337,647	2,774,800	18,576,845	21,351,705	2,834,169	62.05
K. C. & O.	15,484	205,725	658,534	8,750,126	9,408,660	875,415	76.50

Q. Mr. Dilworth, are you aware of the fact that The Union Pacific Railway Company lost a very large amount of land from its land grant received from the United States because of entries and filings in the land office before their map was filed with the Secretary of the Interior?

A. No, sir; I know nothing of that.

Q. You have not made any allowance for those losses, have you?

A. No, sir.

Q. Have you made any allowance for the losses which the Burlington System, by reason of the overlap of the grant to that company in this state by the grant to the Union Pacific?

A. No, sir; I do not believe they lost any, because they took lands in other parts of the state for them. I think you will find up in Valley County they took a lot of land.

Q. Did they get land, did they get as many acres to make up their losses as they lost?

A. I could not tell you about that, all I know is they got some land up there in Valley to offset the overlap.

Q. Those lands up there were very much less valuable than they were in the region through which their land aided road lies?

A. Some of them were poor lands I have been told, and others were very fair land, but of course, not as valuable as along the line of railroad.

Q. The lands were intrinsically worth a great deal

less, were they not, I mean on account of the difference in the soil?

A. Well, sir, I could only answer that, Mr. Woolworth, by an opinion, that would be all, from what I have heard other people say.

Q. A good deal of what you have testified to has been an opinion, and I would like to take your opinion on that subject.

A. They got some good lands up there, and they got some that was not so good, very poor.

Q. When they got their land up there they were supposed to be very much less valuable than they were down through Cass, Lancaster, Saunders, and the other counties that their land-aid road traversed, were they not?

A. O, there is no question but what they were less valuable than those lands.

Q. Did the Chicago & Northwestern get any lands in Iowa from the government by way of grant?

A. I do not know.

Q. Were the grants in Michigan, Wisconsin and Minnesota to that company by name?

A. I think they were granted to them probably under some local corporation name, the company was absorbed by the Northwestern System afterwards.

Q. Have you any personal knowledge on that subject?

A. No, sir, only what I obtained from reading the standard works.

Q. And you do not know that that company even in

that way got anything, except as you have informed yourself by the examination of books?

A. No, sir.

Q. What is this book you speak of, "Poor's Manual?"

A. It is a compilation of railroad reports of the different railroads of the United States, gotten out, a volume every year.

Q. By Poor, is it?

A. Poor & Sons, I think.

Q. It is an unofficial publication, is it not?

A. I do not know how that is. I do not know how they derive their information, whether they get it from official reports or not. I do not know of any law directing that report shall be made to them, but they seem to make it.

Q. They are mere private individuals that compile these statistics and this information on their own adventure, is not that the case?

A. I should presume so, although I do not know anything about that. All I know is I see their books wherever I see anybody that has anything to do with a railroad.

Q. All the information you have been giving with respect to grants of land has been derived from that and similar sources, has it not?

A, No; in regard to the Union Pacific, and Burlingson, I get that from this document that we have here from the state library.

Q. You mean the book that you have referred to in

the course of your testimony, entitled, "The Public Domain, its History, with Statistics", purporting to be a miscellaneous document of the House of Representatives, is not that true?

A. Yes, sir; "Miscellaneous Document, 45, Part 4."

Q. Has that book any official character beyond the fact that it is published as a document by Congress, or one house of Congress?

A. All that I know is what it purports to show on its face, and that I got it from the state library.

Q. Well, it does not purport to have been published by any other authority than the simple fact that it is a miscellaneous document of the House of Representatives, is not that so?

A. Well, it also shows it is printed by the Government Printing Office, and prepared by Thomas Donelson.

Q. Do you not know that there are a great many books printed at the Government Printiug Office that have no official or government character at all?

A. No, sir; I don't know it; it may be, but I do not know anything about it.

Q. Well, now, with reference to these grants to the several roads which now form a part of what you call the system of the Chicago, St. Paul, Minneapolis & Omaha Railroad, where were the lands which were granted to the Sioux City & St. Paul?

A. The Sioux City & St. Paul, I think those lands were granted in Iowa. My recollection is that that road was

an Iowa corporation and ran from Sioux City north to the state line, and there connected with the St. Paul & Sioux City, that ran from St. Paul down and connected with the other road and made a continuous line between the two cities.

Q. How far is it from Sioux City to the point of junction of the two roads.

A. I do not know.

Q. Are you quite sure that the Sioux City & St. Paul got any land grant at all?

A. Only what I obtain from the books.

Q. Was not the land granted by the State of Minnesota to the St. Paul & Sioux City?

A. It may have been by the state; I would not say it was by the general government.

Q. The United States did not grant anything to either of those two companies direct, did it?

A. My impression is they didn't, but I would not say. My impression is these grants to those individual roads were state grants.

Q. Where were the lands that were granted to the St. Paul & Sioux City?

A. I think they were in Minnesota.

Q. When was that grant made to that company?

A. Well, that was made when the company was first constructed, a good many years ago; I could not tell you just what the date was now.

Q. Wasn't it over twenty years ago?

A. I should presume so, but still I would have to look that up to be accurate?

Q. How much land aid did those companies receive?

A. Why I had the memorandum there. I cannot recollect it without the memorandum.

Q. I will refresh your recollection. Did not you say it was about 600,000 acres?

A. No, sir; that was the Sioux City & Pacific that was 600,000.

Q. Well, the Sioux City & Pacific ran from Sioux City, in Iowa, down the river, to what is now Missouri Valley, crossing the Missouri River at Blair in this state, and running thence to Fremont, did it not?

A. Yes, that is my recollection of its route.

Q. When was that road built?

A. It was being built about the time the B. & M. was being built through the western part of this state, that is the main line from Lincoln west, early in 1870 sometime.

Q. That was one of the roads mentioned in the Union Pacific acts of '62 and '64?

A. I think they are all contained in that one act, yes, sir.

Q. Do you know that that road lost a very great deal of land covered by the United States grant to it, by reason of entries by private parties in the land office, and pre-emption and other filings?

A. No, sir; I do not know anything about that.

Q. When you came to the state where did you go to live?

A. Lincoln, Nebraska.

Q. Well, in 1873 and 1874, did you go up in the region of country through which the Union Pacific runs?

A. Yes, sir; I moved up within the land grant of the Union Pacific in 1873.

Q. Where was that?

A. That was in what is now known as Phelps County, the north line of Phelps County, on the south bank of the Platte River.

Q. At that time did you have any knowledge of the value of lands along the line of the Union Pacific from Omaha to the west boundary of the state?

A. Yes, sir; to some extent, because we were looking to see where we could get cheap lands and make an investment of what little money we had along with us.

Q. That was the extent of your information on the subject?

A. Yes, sir; except talking with people from different parts of the state. As a matter of fact, land up around Kearney and Columbus were pretty nearly as high as they were in the eastern part of the state, because they expected to get the capital located there; at one time they talked strongly of moving the capital there.

Q. The region of territory where values were affected by those reasons was not very extensive, was it?

A. No, sir; it was more in town lot business than it was in the country.

Q. Did I understand you rightly to say that House Roll No. 33 reduces the income of the B. & M. in Nebraska 1.3 per cent.?

A. No, sir; that was the income of the C. B. & Q. System.

Q. Then the reduction of the income which you stated to be 1.3 per cent. was that per cent. upon the whole earnings of the Chicago, Burlington & Quincy system?

A. Yes, sir.

Q. In all of the eight several states through which it runs, do I understand you correctly?

A. I do not know how many states, but it is what is termed as the Chicago, Burlington & Quincy System; consisting of nearly 6,000 miles of road.

Q. And when you said it reduced the income of the Northwestern System .3 per cent., that was the reduction upon the whole capital of the company?

A. That included the Chicago & Northwestern proper; the Chicago, St. Paul, Minneapolis & Omaha, entire system of that road, and the Fremont, Elkhorn & Missouri Valley Railroad, altogether something like 8,000 miles of railroad.

Q. You say that you have given a valuation of the rolling stock of the Union Pacific, and you have fixed that valuation upon the amount of rolling stock shown by the returns of that company to the Auditor or proper state officers for taxation, have you not?

A. As to the number of each kind of cars, yes, sir; not as to the value, except that I took Mr. Scribner's letter into consideration in arriving at an estimate.

Q. Well, won't you tell us from what information you estimated the value, for instance, of an engine, on the Union Pacific?

A. Well, sir, I estimated that by the amount that they, all the railroads paid on an average for their engines the last two or three years, I don't know how many years, I think that I took two anyhow, and then, talking with railroad men as to about what an engine would cost, and knowing about what kind of engines, that is from their appearance, that they were.

Q. I understand you to say the men you talked with were Sioux City people?

A. My recollection is I talked nearly altogether with Sioux City, and possibly with one or two men in this state, but I don't recollect that I did.

Q. Will you tell me what to-day is the cost of a first class engine of the largest size run by the Union Pacific on its road in this state?

A. Well, sir, my estimate of that would be about eleven or twelve thousand dollars new, the largest class engine.

Q. If it should turn out that it was nearer $20,000 than $12,000 you would be quite mistaken, would not you?

A. I would so, yes, sir.

Q. How does the present price compare with what it was in '69?

A. O, I did not invest in any engines in '69, but I presume they are less now, except that the engines are better now than they were then, and I doubt if there is a great deal of difference in price on an individual engine and what there was then, because the engines are made better, new inventions all the time, so I doubt if the individual engine costs much different than it did then.

Q. How much does a first class passenger coach cost, such as the Union Pacific run to-day?

A. I think they run about as good a passenger coach as there is on any road in the state. I think something about like $3,000 or $3,500 would buy one of those coaches at the present time.

Q. Tell me how you make that figure?

A. Well, it is the same way with the others, although they have not been buying so many passenger coaches lately, the roads have not, as they have of other classes of equipment, and there is a great variance in what roads would term first class passenger coaches that each road has got.

Q. Is it not a notorious fact that the values returned upon property for taxation on all hands, with all people, except in the case of persons who are very anxious to pay large taxes, are a great deal less than the actual value of the property?

A. Yes, sir; that has been the custom in this state.

Q. How much less generally?

A. Well, it varies considerably, but I presume it is about one-fifth.

Q. That is, people return about one-fifth of the value of their property for taxation?

A. That is, it is estimated at about one-fourth or one-fifth for taxation.

Q. Don't you think it is rather straining a point to go away up into west Wisconsin and those hyperborean regions to find land grants to incorporate into this testimony as a basis for determining what rates here should be?

A. Yes, I think a region so barren as you suggest—I don't see why we should pay rates here to support a railroad up there, without taking any of the benefits that they receive.

Q. That is the theory on which you think these remote land grants ought to be taken into account in determing the rates we ought to have in local business?

A. No, sir; I think this: If a man says his property has been injured, property he owns up there, by virtue of another property he owns out here, we have a right to take into consideration all the other property he is interested in out here.

Q. That is to say, if rates are a great deal reduced here you ought to take into account the property outside of the state?

A. For this reason: These gentlemen, that complained about the reduction of rates in this state on the

Fremont, Elkhorn & Missouri Valley, and Chicago, St. Paul, Minneapolis & Omaha roads, as a basis of their complaint, say they are stockholders in the Chicago & Northwestern, and the Northwestern Railroad earnings will be reduced, or their income, rather. Now, it seems to me that all comes in as one question as to whether or not it will, and we have a right to ascertain what this man's property is worth, what interest he has got in it, and to see whether it will be affected, as he claims, or not.

Q. There is nobody that owns any of the stock of either the Omaha road or the Elkorn road, aside from the ownership of the stock in the Northwestern, is there?

A. The Fremont, Elkhorn & Missouri Valley road, I think, represents they have ten stockholders, and the other road, I presume, about the same number, enough probably to keep up the organization.

Q. And they represent the Northwestern, don't they?

A. They don't say who the stockholders are.

Q. In point of fact, they are officers, are they not, of the Northwestern road, officers or directors?

A. If a director has got to be a stockholder in a corporation, I presume that is true.

Q. Is it not a fact that all the stock of the Elkhorn and Omaha roads belongs really to the Northwestern road?

A. From the best information I can obtain that is true I think.

Q. So that the people that are complaining here are

really the stockholders of the Chicago & Northwestern Railroad Company, are they not?

A. That is what they allege themselves to be?

Q. I do not mean in this suit, but aside from those who are parties to this suit, it is the stockholders of the Northwestern who are complaining of the action of this state because of the property of the Elkhorn and Omaha railroads?

A. I do not know whether these parties are stockholders or not; they claim they are, and that is all I know.

Q. You mean stockholders of the Northwestern?

A. Yes, sir; I don't think they claim they are stockholders of the separate roads.

Q. When you were giving an account of the municipal aid granted to the several companies you said there were some bonds which were not registered, is it not a fact that no bond is valid until it is registered?

A. These were voted before the registration law took effect, and were negotiated.

Q. Have not they all been registered?

A. No, sir; I think not.

Q. Will you tell me of a single case where there is an issue of county bonds in aid of a railroad outstanding to-day that has not been registered and yet is a marketable obligation?

A. I believe the old Midland Pacific bonds of this city, I would not say the city voted them, but I think the county did. The road from Nebraska City here which is now a part of the Burlington & Missouri, I don't think I

could find any of those bonds, and the bonds voted by Plattsmouth or Cass County in aid of the Burlington & Missouri Railroad Company, to aid the road from Plattsmouth to Lincoln, I could not find any of them, and I do not believe they have been paid for yet.

Q. When were those bonds issued to the Midland Pacific?

A. I was here when they were voted, I think in 1871 or 1872.

Q. Have they all been matured or become due?

A. Yes, sir, possibly.

Q. Have not they all been paid, every dollar of them, or else another issue made to take them up?

A. That is possible, they may come in under the head of refunding bonds, or something of that kind, and not be registered here, I could find no record of them.

Q. Tell me how you know that the Union Pacific rolling stock is used on the Omaha & Republican Valley?

A. Because I have rode on it a number of times, and see it pass through the City of Lincoln nearly every day.

Q. How do you know it belongs to the Union Pacific?

A. Because it has the U. P. name on top of it, and the Omaha & Republican Valley Railroad has reported as only owning one passenger coach, and they have at least four passenger trains through the City of Lincoln alone a day.

Q. All you know about it is the cars have on them Union Pacific?

A. Yes, sir; and that the road only reports as owning one passenger coach.

Q. How do you know that The Union Pacific Railway Company owns any of the stock that is used in operating the St. Joe & Grand Island?

A. Well, I see their freight cars standing on the sidetracks of the St. Joe & Grand Island just as frequently as I do a car that belongs to the St. Joe & Grand Island.

Q. What makes you think that stock belongs to the Union Pacific is that it is marked U. P.?

A. Yes, sir.

Q. That is true also of the Kansas City & Omaha?

A. Yes, sir.

Q. How long have you been a secretary of the Board of Transportation of this state?

A. It will be three years the first day of next May.

Q. Do you remember a controversy before the Board between many citizens of this state and the railroad companies which was pending in the summer of 1891?

A. Yes, sir.

Q. What part did you take in that matter, I mean to say did you act as secretary of the Board in the course of that controversy?

A. The Board heard the evidence, held the meeting and heard the evidence themselves. It was all taken down in shorthand and then the matter was referred to the three secretaries to draw up a report and findings, and as one of

the secretaries I assisted in making the report of findings, recommendations.

Q. Who were the other secretaries?

A. J. N. Kountz and J. W. Johnson.

Q. The same gentlemen who are secretaries at the present time, I suppose?

A. Yes, sir.

Q. That investigation was a very thorough one, was not it?

A. We considered it so, yes, sir.

Q. You meant to make the investigation a very exhaustive one, did you not?

A. As far as that is to be considered, the Board held the meetings themselves, and heard the evidence, and the secretaries did nothing but take the evidence after it was done and make a report and findings. I presume the Board intended to make a thorough investigation.

Q. They did, in fact, didn't they?

A. They heard everybody that had any complaint to make and that was the extent of the investigation, except that they put in evidence the statement of the different railroads in the state, and it was as thorough an investigation, probably as the Board as a Board could make.

Q. You mean a Board without judicial powers to compel the attendance of witnesses?

A. Well, somewhat in that respect, and then a Board acting as a Board can never get down into a question as deep as an individual could.

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REPORT

OF

BOARD OF SECRETARIES

ON THE QUESTION OF

Reducing Local Freight Rates.

SEPTEMBER, 1891.

LINCOLN, NEB.:
STATE JOURNAL COMPANY, PRINTERS.
1891.

REPORT

BOARD OF SECRETARIES

Reducing Local Freight Rates.

REPORT OF THE SECRETARIES.

To Messrs. Benton, Hill, Hastings, Allen, and Humphrey, Members of the Board of Transportation:

GENTLEMEN: Pursuant to a resolution of your Board directing the secretaries to prepare a statement of facts in the matter of transportation rates in this state we respectfully submit the following:

In order that you, and through you the people of the state, may have a more comprehensive view of the whole controversy on the question of freight rates between the people and the railroads of the state we call your attention:

First—To a brief history of the controversy from its earliest beginning, showing the situation as it was, up to the time when the present members of the Board went into office.

Second—To such facts, figures, and arguments as we have been able to gather from both sides, to the controversy at the recent public investigation held by this present Board, and to other facts ascertained by the secretaries prior to and since the recent public investigations.

The present controversy between the people and the railroads of this state originally grew out of the question, not of rates or reduction of rates, but of control. The people, recognizing the railroads as common carriers, not entitled under the state constitution to the same broad liberty of action in business that the individual citizen has, wanted to control the roads. The roads, impatient of interference, wanted to control themselves and manage their business in their own way. The roads were aggressive in business matters. They crowded the rapid development of their systems in all directions throughout the state with an energy never before equaled in history. Had they been less energetic and less forceful in the early settlement of the state there would have been less progress and less material development. Not only were the railroads energetic and forceful, but they were arrogant and overbearing in their methods. By the very force of their splendid energy they were natural usurpers of power, and the individual citizen stood in awe of a magnificent combination of capital, brains, and energy that had no conscience and no soul.

To protect himself against its aggressiveness his first instinct was to pass laws that would curtail its legal rights. To prevent the passage of such laws was the natural instinct of the roads. The citizen at once appealed to public sentiment with a view of securing the passage of such laws as he deemed necessary to check this growing railroad power. Had the railroad people at this point calmly considered, yielding to the passage of such laws, for general control, as the people under the constitution were entitled to, submitting to control rather than seeking to control, they would have secured popular sympathy instead of arousing popular distrust. And had the citizen pursued the even tenor of his way, holding fast for what was his by right, moving forward in the line of his own good common sense, avoiding rather than seeking a quarrel with the railroads, electing only honest men to the legislature, he would have secured earlier in the struggle the legal control and the legal remedies which he sought for, and, preserving his even temper and cool judgment, he would have been able to recognize justice when he found it, and to know when he had gone far enough. When the public will is moved by judgment, and not by prejudice, there is always inherent in the popular heart a love of justice and fair play; but when baffled by tricks and bullied by unlawful assumption of power, the public will becomes perverted and moves by caprice and not by reason. At such times the professional agitator finds public sentiment an easy prey to his mischievous doctrines.

Never in history has a better opportunity been given to arouse popular prejudice than was given by the railroad managers in this state in the earlier stages of this controversy. As the anti-railroad sentiment grew and became threatening in its attitude, railroad manipulation became less scrupulous; and the louder the clamor for railroad legislation and railroad control, the more the railroads refused to yield to the reasonable demands, and the more they sought through political intrigue to defeat the popular will.

It seems strange that a community of producers of more than average intelligence, and a community of railroad managers and builders, having so much at stake of mutual interest, should allow a dangerous feud to grow up between them.

In the dispute as it originally began there is no doubt the railroads were in the wrong. They were stubborn and unyielding at a time when they should have been satisfied to live and let live. The people

asked only what was reasonable, and what was guaranteed to them under the state constitution. For many years the roads were able, through their political power, to defeat legislation. They were the stronger of the two in the contest. They were the only capitalists in the state and were rich. The producers were few in number and were poor. The railroads had plenty of money, and they spent it lavishly in the construction of new lines. They were powerful in politics, and were aggressive and arrogant in their manipulations of men and measures to accomplish their purposes. Their overmastering influence in the state aggravated the temper of the people and banded them still more closely together in a still stronger anti-railroad sentiment. At length, in 1881, came the first victory for the people, in the form of an act by the legislature fixing a maximum rate. It was not a reduction of rates, but a fixing of a defi e limit, above which the rate tariff might not go. This rate wa ken from the lowest published schedule of rates then in force. In this the people had gained one point, that of control. No sooner had this law been enacted granting control over rates than the people began to demand more control. They demanded a court that should have general supervision over the roads, with power to judge and decide questions in dispute, before whom they might bring specific complaints and have them promptly and fairly adjusted. In obedience to this popular demand a railroad commission was created in 1885. This was the second victory for the people.

No sooner had the commission been created than it became unpopular. The people had now gone beyond the question of general control, and the fixing of a maximum rate, to the question of reduction of rates, and the commission had no power to reduce. The cry was raised to abolish the commission, and create in its stead a new court which should have still greater authority as to general control, and which should be vested with power to reduce rates. Again the people were victorious, and the law makers of 1887, composed largely of farmers, created the Board of Transportation. This Board, as now constituted, consisted of eight members, five of whom were elected by direct vote of the people, and exercised controlling power in the official acts of the Board.

This law was a practical embodiment of the national law creating the interstate commerce commission. It was urged by those who demanded this new court that a majority of its members, being elected

by direct vote of the people, and owing allegiance alone to the citizen who cast the ballot, the power to fix rates of transportation would be under the direct surveillance of the producer, the only check on his individual judgment being the individual will and the individual judgment of the officials whose authority his vote had created.

The producing classes of the state had at length prevailed, after much agitation, much engendering of bad feeling, and much loss of confidence of both parties in each other. So far as legal advantage was concerned, the public will had asserted itself and the producer commanded the situation.

The only question yet to solve was as to what extent rates should be reduced. Here the struggle shifted from the people in general against the roads to the Board of Transportation against the roads.

The result of this contest between the Board of Transportation and the railroads was a general average reduction on local and through rates of 33⅓ per cent. This was the most sweeping and far-reaching reduction ever accomplished by any board of railroad commissioners in the United States. It not only affected the local rates over which the Board had absolute control, but interstate rates over which the Board had no control, and that were of greatest importance. In this attack the Board of Transportation was so vigorous, and their demand was crowded with such determination and force, that the roads were compelled to make great concessions on the interstate rates. And when these concessions were made it was tacitly understood and agreed between the Board and the roads that the local rates should not again be disturbed until such time as the local interchange of business in this state should be of more general importance to the people than it was then. In order that you may more fully comprehend what was involved in the issue between the Board and the roads at this time you should bear in mind that a reduction of the local rates in Nebraska meant to the roads a general corresponding reduction in local rates in Kansas, Colorado, Wyoming, Montana, Utah, Idaho, Nevada, Oregon, and Washington. The Board saw this point as clearly as the roads did. The Nebraska Board of Transportation had indirect power to cause a reduction in all these other western states, where there were no boards of control.

The Board used their power over local rates to extort from the roads broad and liberal concessions on interstate through rates, which was the vital question to Nebraska producers.

So swift had been the progress of the anti-railroad sentiment in this state, and so fierce had it become in its demands, it stopped not to recognize what the Board had done, but passed on from the demand for reduction to the demand for more reduction.

In the trial that took place in the summer of 1887 the roads resisted reduction with great force and determination. They fought most determinedly every inch of ground from beginning to end. The Board being composed in part of men of high legal standing, being assisted by a "rate expert" of recognized ability, investigation was most thorough and complete.

In view of the fact that the Board secured this sweeping reduction, and has since that time made still further reductions, it would seem that as a rate reducer it had fairly earned from the producers of the state some slight gratitude, if not respect; and it would seem that, after having brought the railroad power to terms, the anti-railroad sentiment should have been, for a while at least, reasonably satisfied. The scene had now changed since the earlier part of the struggle. The roads have expended their money in the building of new lines that were unprofitable. They were obliged to exercise the strictest economy in order to make even a small dividend. The C., B. & Q. railroad lost in the strike of 1883 $3,000,000, which, together with the reduction of rates, caused their stock to decline 50 cents on the dollar. Hard times was staring them in the face. In the meantime farmers in the state had prospered.

We have shown to you how this controversy first started, over the question of control. How in 1881 a maximum rate was fixed, which was control. How the people then demanded more control, and how in 1885 the commission was created for more control. How the people then demanded still more control, and reduction of rates. How in 1887 the commission was abolished and the Board of Transportation created, which had not only power to exercise still more control, but to reduce rates, and which actually did, in the contest with the Elkhorn road, cause a reduction of 33⅓ per cent, supplementing this reduction with still further reduction on coal and grain. How the railroad power of this state had been rebuked for its audacity, punished for its rapacity, and yet the agitation was not one whit cooled in its fury, but grew in force and violence and called louder than ever for still more reduction. Again the second newly elected Board of Transportation took up the question and called a meeting for still further investigation.

The Board saw no way of arriving at the facts only by investigation. The question then pending before the Board when the present members came into office in the earlier part of the year was "still more reduction." Recognizing its duty as a court to render judgment according to facts and according to justice, it at once set about to ascertain facts.

On the 13th of August this Board sat at Lincoln, as per previous announcement, to take evidence and hear argument. It is worthy of note that no person appeared at that or any subsequent meeting of the Board who advocated the lowering of the rates of the products of our farms to our markets. But at the Lincoln meeting it was urged upon the Board that the short haul rates be modified, with no complaint whatever as to rates as now fixed on grain, live stock, or coal.

It is also worthy of special notice that the gentleman making this argument made no effort to show that the rates on our out shipments of Nebraska farm products were unreasonably high, his argument being confined to a criticism of the Nebraska distance tariff. He charged that the rates in this state were founded on what is known as the long haul theory; he said:

"The purposes for which the rates are fixed are as follows:

"First, to protect the existence, under the rule of charging all the traffic will bear, of such internal industries of the state as produce articles for a distant market such as corn, oats, and packing house products upon which they can collect freight charges for a long haul.

"Second, to prevent and prohibit as far as possible such internal industries of the state as might supply the home markets of the state with those commodities which the road is now hauling into the state from long distances at high freight rates."

He also claimed: "That the local distance tariff of the C., B. & Q. was formulated with this second purpose in view." He claimed the freight most used by the people is that shipped under the rates for fourth and fifth class. The rates on the fourth and fifth class freight, are those, therefore, which are of the most importance to the people, yet it is on fourth and fifth class freight that we meet with the greatest discrimination under the local distance tariff in Nebraska, a discrimination operating against the local shippers and in favor of the shippers living in cities far distant from the state. This discrimination against the shippers in interior Nebraska results from the disproportion existing between the low through rates to the state, and the high local rates in the state.

It must occur at once to any ordinary man that a low rate for the long haul is the very life of Nebraska.

If the principal business of the people of the state was to exchange commodities among each other, from town to town, on short hauls within the state, then they would want rates based on the short haul theory. But if the principal business of the people of the state is to raise grain and stock for a far away eastern warket, and to import building material and family supplies for a far away eastern market, then the low rate on the long haul is absolutely vital to their interests.

The producer in Nebraska is interested in rates only on such articles as he buys and sells. It makes no difference to him what the rate is on hoop-poles if he never buys or sells hoop-poles. He is interested only in the freight he pays, either as buyer or seller. Admitting, for the sake of argument, that he pays the freight both ways, both on what he buys and what he sells, he then pays both the long haul and short haul freight, and to determine which of the two hauls he would have the rate based on he must first ascertain which haul he uses most. If the shipments of these articles which he buys and sells are mostly long haul shipments, then he wants the rates favorable to the long haul theory; but if the shipments are mostly short haul shipments, then he wants the rates based on the short haul theory.

Let us take an average Nebraska farmer, and see whether the tonnage on which he pays freight is handled mostly on the long or short haul. The average Nebraska farmer ships or receives in one year 2,000 bushels, or 120,000 pounds, of grain; 40,000 pounds of live stock; 20,000 pounds of coal, salt, lumber, etc.; 500 pounds of groceries; 1,500 pounds of miscellaneous articles; making in all a total of 200,000 pounds, on which he pays freight either as a buyer or seller. Not over 500 pounds, or one-quarter of 1 per cent of this, is handled on the local distributing rate.

Would the farmer who pays freight on 300 pounds of sugar and two car loads of fat steers prefer to have the rates adjusted in favor of the sugar rather than the steers? Or, if he sells a fat hog and purchases a paper of pins, will he complain that in the adjustment of freight rates, discrimination is made in favor of the hog and against the pins?

The principal transactions of our people in Nebraska do not consist in buying, but in selling. We are producers rather than consumers. Our present prosperity was not attained by purchasing groceries but

in the selling of cattle, hogs, and grain. The future wealth of our farmers depends not on the price of what they buy in the stores of their nearest town, but on the price of what they sell to eastern markets. And yet men appear before this Board and appeal to the farmers through the press, criticising the long haul theory on which our rates are based, because they say it discriminates in favor of the long haul shipments of our grain and live stock, rather than on the local distribution of groceries. They say this present system tends to build up the producer of our farm products rather than the man who sells sugar and coffee, and they point to a list of 600 articles of merchandise which they say are discriminated against for the benefit of the Nebraska steer. If it could be shown that the list embraced six hundred times six hundred articles, it would still be true that the short haul freight paid by an ordinary farmer in one year's purchase of these articles would not amount to as much as the freight on one fat steer from here to Chicago. And so long as the Nebraska steer continues to be of so much importance in the business transactions of this state, in the adjustment of our freight rates, it seems meet and proper that the interest of our steer should stand paramount. Bear in mind always, that of all the freight paid on all the articles bought and sold in a whole year's transaction of our ordinary farmer, the short haul freight is only one-quarter of 1 per cent. Less than 1 per cent of all the tonnage of Nebraska roads is included in agricultural implements and merchandise shipped locally. The principal items of commerce in the state are grain, coal, lumber, live stock, and meat products; they being 70 per cent of all the commerce of the state. Less than 1 per cent of grain, coal, and lumber is local business, because we have no forests or mines, and small local demand for grain shipped by rail.

An agitator may stand before an audiance of people and set them wild with excitement, or he may appeal through the press and raise an army of 70,000 voters by quoting technical instances in which the local rates on these articles seem disproportioned to the long haul rate; but when these 70,000 men stop to consider that less than 1 per cent of coal, grain, and lumber is local business, the argument falls to the ground, and the agitator only proves how mischievous a man can be when he talks with the purpose to deceive. Now it may be asked if the distributing rate is so little used by the people of the state, to reduce it would not seriously affect the income of the roads, why not reduce it and silence the popular clamor? It is easily ex-

plained why a reduction of this tariff in Nebraska, although it is little used by the ordinary farmer, might seriously affect those Nebraska railroads which have extended their lines into states west of us. It is plain to any man that, as we approach the west, where the country is more sparsely settled, and the tonnage is lighter, higher rates must prevail, in proportion to the decrease of business. Nebraska doing a much less business on the distributing rate, must have a higher rate than Iowa; and Colorado and Wyoming and other western states must stand a still higher rate than Nebraska, and the tariff should be so arranged that the proportion in advance of rates shall be consistent with the decrease of business in each state. If the Nebraska distributary rate is put on a plane with that of Iowa, the discrepancy between the Nebraska rates and the states west of us would then be too great, and immediately the demand would come from those states for a reduction consistent with the Nebraska rates, and such reduction would be a serious matter in its effects on the revenues of the roads in those states, where the conditions are dissimilar to ours, and where the distributary rate is more in use. Will the Nebraska farmer insist that for the sake of the reduction of one-quarter of 1 per cent of his freight bills he will jeopardize our present low through rate to the eastern market? But it is also urged that our local distance rate in Nebraska should be put on a par with that of Iowa. In considering that question the one point vital to the farming interests of Nebraska is whether our stock and grain can be shipped from the interior of the state to Omaha and Lincoln on the local distance tariff, and from thence to Chicago and St. Louis, and whether, when these products reach Chicago and St. Louis, they have paid per mile in proportion to the distance traveled more than the same products would have paid had they started in Iowa instead of Nebraska. When a Nebraska steer reaches Chicago in the form of dressed meat, the question with him is not what it costs him to travel through Nebraska or Iowa or Illinois, but what he paid for the whole trip, and whether a proportionate reduction has been made in accordance with the distance traveled. If he has traveled twice as far as the Iowa steer, then he should have paid, not twice as much, but less than twice as much as the Iowa steer. For the purpose of ascertaining whether in the adjustment of rates the Nebraska steer is being fairly treated in comparison with the Iowa steer, let us take one of each, follow him to Chicago, and see how they stand in relation to cost of transporta-

tion. Take a Nebraska steer at Hemingford, Nebraska; ship him to Omaha under the Nebraska tariff, which is 22.8 per hundred pounds; kill him and ship the dressed meat to Chicago at 22 cents per hundred pounds. He has traveled 931 miles and has paid 44.8 per hundred pounds. Now take an Iowa steer and haul him alive the same distance over a "C" road at Iowa local rates, 31 cents per hundred pounds; kill him at the Cedar Rapids packing house, and ship the dressed meat to Chicago at 17 cents per hundred pounds. He has now traveled 650 miles and has paid 48 cents per hundred pounds. The Nebraska steer travels 931 miles and pays 44 cents per hundred pounds. The Iowa steer travels 650 miles and pays 48 cents per hundred pounds. Forty-eight cents for 650 miles as against 44 cents for 931 miles. The Nebraska steer has traveled once and one-half the distance of the Iowa steer at an actual less cost. Take a Nebraska steer at Funk, Nebraska; ship him to Omaha, 200 miles in a thirty-six foot car, at 14.5 cents per hundred pounds; now add rate on product to Chicago from Omaha, 22 cents, and your Phelps county steer is in Chicago, a distance of 700 miles, at 36.5 cents per 100 pounds. Take an Iowa steer and ship him from a point 200 miles west of Cedar Rapids over an "A" road at 15.5 cents per 100 pounds; add rate on product from Cedar Rapids to Chicago 17 cents, and your Iowa steer has paid 32.5 per 100 pounds on a distance of 419 miles. The Phelps county, Nebraska, steer pays only 4 cents per 100 pounds more to reach Chicago than the Iowa steer, and yet he travels nearly twice the distance.

Now take a Nebraska steer at Mason, in Custer county, Nebraska; ship him to Omaha 200 miles over what would be a "C" road, at 15.2 cents per 100 pounds; add rate on product from Omaha to Chicago, 22 cents, and the Custer county steer stands charged with 37.2 cents per 100 pounds, and has traveled 700 miles. Take your Iowa steer over a "C" class road 200 miles, at 20.17 cents per 100 pounds, from Cedar Rapids, add 17 cents on product to Chicago, and the Iowa steer stands charged with 37.17 cents per 100 pounds for a ride of 419 miles. The Nebraska steer has traveled 700 miles as against 419 miles for the Iowa steer, and paid only $\frac{8}{10}$ of one cent per 100 more.

In all ages of the world's history since commerce was first instituted among men there have been opportunities by the skillful use of figures in proving to the poor man that he is being abused by the rich

man and in proving to the individual that the corporation is his natural enemy, but never was a subject more capable of being twisted with mischievous effect by the skillful use of figures and the singling out of technicalities than the subject of transportation.

In discussing freight rates a man in Adams county might say: Gentlemen, you are corn raisers. I wish to show you wherein you are paying extortionate rates on corn. He then points out that the rate on corn from Hastings to Sutton, 25 miles, is 5 cents per 100 pounds, while the rate from Omaha to Chicago is only 19 cents per 100 pounds, the distance being 500 miles, or twenty times as far. He shows how this discrimination in local corn rates keeps the farmer poor, and wishes to have it so adjusted that the corn rate between Hastings and Sutton shall be as low proportionately as that between Omaha and Chicago. In telling only half of the truth he has deceived the Adams county corn raiser in a most mischievous manner. In the first place the Adams county farmer has no occasion to ship corn from Hastings to Sutton. If the conditions were such in this state that we consumed all our own products here in the state, shipping it from one town to the other on the short haul, and if we had forests for our own lumber and mines for our own coal and salt; if we exported nothing to a far distant market and imported nothing from a far distant market; if our commerce as a state consisted, in the main, in an exchange of commodities among each other, then we would want the rates adjusted so as to favor the short haul, and discriminate against the long haul. Not only would the Adams county farmer want a low corn rate from Hastings to Sutton, but he would want the through rates between Illinois and Nebraska as high as possible, to prevent the Illinois farmer from sending his farm products into Nebraska to compete in the Nebraska market with the Nebraska product. If the farmers in Illinois could have their will in the adjustment of Nebraska rates, they would so adjust it as to make the long haul rate between Nebraska and Chicago so high that it would practically exclude Nebraska grain and stock from the Chicago market.

The Adams county farmer is not engaged in selling corn in the Sutton market, but in the Chicago market, and the price he receives for his grain is the price in Chicago, less the price it costs to get it there. In reckoning this cost it is not material what rate the corn pays as it travels between Hastings and Sutton, or between Hastings and Omaha, or what it pays while passing through Iowa or Illinois, but whether, when it has reached Chicago, it has traveled on a through rate for the whole distance, consistent with the through rate for the whole distance paid by Iowa and Kansas corn, with which it must compete in the Chicago market. The Adams county farmer cannot expect the railroads to annihilate distance. He cannot expect the

produce of his farm, located in central Nebraska, to be laid down Chicago at the same identical cost as that of the Iowa farmer who several hundred miles nearer. He has, however, a right to demar that his product, when it comes in competition with the Iowa produ in Chicago, to pay a lower rate per mile in proportion to the long distance it has traveled.

By investigation we find that the discrimination is in favor of th Nebraska product as compared with the Iowa. Take an exampl The rate on corn from Hastings to Chicago is 23 cents per 100 pound To reach Chicago it travels 626 miles and pays at the rate of $\frac{7}{10}$ of cent per mile. From Murray, Iowa, to Chicago the corn rate is 1 cents per 100 pounds. The distance is 365 miles and the rate p ton per mile is 1 cent. The Nebraska corn travels at $\frac{7}{10}$ of 1 cen while the Iowa corn pays 1 cent, per ton per mile.

Now let us take a Nebraska hog to Chicago and see whether th discrimination is against him and in favor of the Iowa hog. Tak him from Republican City to Lincoln, alive, at 16 cents per 10 pounds. Take the product from Lincoln to Chicago at 25 cents p 100 pounds, and your Nebraska hog has paid 41 cents per 100 pound to reach Chicago, 720 miles away, his freight being at the rate of 1.1 cents per ton per mile. Take the Iowa hog the same distance ov a class "A" road, and from the packing house at Cedar Rapids tak the product to Chicago, and your Iowa hog has paid 31 cents per 10 pounds to reach Chicago, a distance of 400 miles, and has cost at th rate of 1.6 cents per ton per mile.

Take the question of coal rates. From Rich Hill, Mo., to Lincol Neb., the distance is 287 miles, and the rate is $1.15 per ton, or $\frac{4}{1}$ of 1 cent per mile per ton. The Iowa rate on an "A" road for 28 miles would be $1.22 per ton, or $\frac{4.5}{100}$ of 1 cent per ton per mile— difference on a 287 mile haul in favor of Nebraska of 7 cents pe ton. From the Muchakeroick mines the coal rate to Lincoln is $1.2 per ton, the distance being 370 miles. The Iowa rate on class "A road for the same distance is $1.31 per ton, or 4 cents per ton i favor of Nebraska.

Now let us take a Nebraska farmer and put him into the marke in St. Louis where he wants to sell corn in competition with the Mis souri farmer. The Nebraska farmer pays on corn from Adam county to St. Louis 18 cents per 100 pounds on a distance of 58(miles. The Missouri farmer from Jackson county, Missouri, pay 14 cents per 100 pounds, a distance of only 285 miles. The Ne braska farmer has paid only 4 cents more per 100 pounds than th Missouri farmer, and has hauled his products over twice as far.

We have given you in the foregoing a brief history of the rat matter as we have found it, and from that history and from the evi dence and reports on file in our office we beg leave to submit in con clusion the following findings of fact:

First—We find from the evidence, and sworn statements and reports, on file in our office, and from personal inspection, that the railroads in this state could not be duplicated for a less sum than $30,000 per mile, taking into consideration their equipments and depot and terminal facilities.

Second—We find from the evidence and sworn reports heretofore filed in our office, that the railroads have, for the years of 1887, 1888, 1889, and 1890 made the following rate per cent per annum upon what, in our estimation, upon a careful investigation, would be the lowest amonnt for which they could be duplicated or paralleled:

For the year ending June 30, 1887, the Chicago, Burlington & Quincy railroad had a total length of 1,781.77 miles.

Cost at $30,000 per mile	$53,453,100
Gross earnings	7,944,814
Operating expenses and taxes	3,811,400
Net earnings	4,133,414

Per cent per annum, 7.7.

For the year ending June 30, 1887, the Missouri Pacific had a total length of 150 miles.

Cost at $30,000 per mile	$4,500,000
Gross earnings	166,867
Operating expenses and taxes	305,261

Deficit, $138,394.

For the year ending June 30, 1887, the Chicago, Kansas & Nebraska had a total length of 134.13 miles.

Cost at $30,000 per mile	$4,023,900
Gross earnings	38,862
Operating expenses and taxes	38,940

Deficit, $78.

For the year ending June 30, 1887, the Chicago, St. Paul, Minneapolis & Omaha railroad had a total length of 222.98 miles.

Cost at $30,000 per mile	$6,689,400
Gross earnings	681,869
Operating expenses and taxes	515,779
Net earnings	166,090

Per cent per annum, .024.

For the year ending June 30, 1887, the Union Pacific system had a total length of 981.52 miles.

Cost at $30,000 per mile	$29,445,600
Gross earnings	6,129,490
Operating expenses and taxes	3,900,630
Net earnings	2,228,851

Per cent per annum, .076.

For the year ending June 30, 1887, the Fremont, Elkhorn & Missouri Valley railway had a total length of 717.79 miles.

Cost at $30,000 per mile	$21,533,700
Gross earnings	2,270,990
Operating expenses and taxes	1,184,209
Net earnings	1,086,781

Per cent per annum, .05.

Total number of miles for the year ending June 30, 1887, 3,988.

Total cost of roads	$119,643,000
Total gross earnings	17,232,892
Total expenses and taxes	9,756,228
Total net earnings	7,476,664

Average per cent for the year ending June 30, 1887, .062.

For the year ending June 30, 1888, the Chicago, Burlington & Quincy railroad had a total length of 2,115.64 miles.

Cost at $30,000 per mile	$63,469,200
Gross earnings	6,888,365
Operating expenses and taxes	4,895,168
Net earnings	1,993,196

Per cent per annum, .031.

For the year ending June 30, 1888, the Missouri Pacific railway had a total length of 193 miles.

Cost at $30,000 per mile	$5,790,000
Gross earnings	526,982
Operating expenses and taxes	365,747
Net earnings	161,235

Per cent per annum, .028.

For the year ending June 30, 1888, the Chicago, Kansas & Nebraska railroad had a total length of 141.50 miles.

Cost at $30,000 per mile	$4,245,000
Gross earnings	161,594
Operating expenses and taxes	222,326

Deficit, $60,731.

For the year ending June 30, 1888, the Chicago, St. Paul, Minneapolis & Omaha had a total length of 244.52 miles.

Cost at $30,000 per mile	$7,335,600
Gross earnings	702,243
Operating expenses and taxes	630,331
Net earnings	71,912

Per cent per annum, .0098.

For the year ending June 30, 1888, the Union Pacific system had a total length of 981.57 miles.

Cost at $30,000 per mile	$29,447,400
Gross earnings	7,029,775

Operating expenses and taxes	$4,703,277
Net earnings	2,326,498

Per cent per annum, .078.

For the year ending June 30, 1888, the Fremont, Elkhorn & Missouri Valley railway had a total length of 953.52 miles.

Cost at $30,000 per mile	$28,605,600
Gross earnings	2,696,609
Operating expenses and taxes	1,682,965
Net earnings	1,013,643

Per cent per annum, .035.

Total number of miles for the year 1888, 4,629.75.

Total cost of roads at $30,000 per mile	$138,892,800
Total gross earnings	18,005,568
Total expenses and taxes	12,499,814
Total net earnings	5,505,753

Average per cent, .039.

For the year ending June 30, 1889, the Chicago, Burlington & Quincy railroad had a total length of 2,121.26 miles.

Cost at 30,000 per mile	$63,637,800
Gross earnings	11,357,901
Operating expenses and taxes	7,504,717
Net earnings	3,853,184

Per cent per annum, .06.

For the year ending June 30, 1889, the Missouri Pacific railroad had a total length of 380 miles.

Cost at $30,000 per mile	$11,400,000
Gross earnings	1,505,601
Operating expenses and taxes	1,127,813
Net earnings	377,788

Per cent per annum, .033.

For the year ending June 30, 1889, the Chicago, Kansas & Nebraska railway had a total length of 141.50 miles.

Cost at $30,000 per mile	$4,245,000
Gross earnings	349,952
Operating expenses and taxes	278,453
Net earnings	71,499

Per cent per annum, .016.

For the year ending June 30, 1889, the Chicago, St. Paul, Minneapolis & Omaha railway had a total length of 240.18 miles.

Cost at $30,000 per mile	$7,205,400
Gross earnings	1,096,195
Operating expenses and taxes	704,335
Net earnings	391,860

Per cent per annum. .054.

For the year ending June 30, 1889, the Union Pacific system had a total length of 1,176.20 miles.

Cost at $30,000 per mile	$35,286,000
Gross earnings	6,261,065
Operating expenses and taxes	3,923,797
Net earnings	2,337,268
Per cent per annum, .066.	

For the year ending June 30, 1889, the Fremont, Elkhorn & Missouri Valley railway had a total length of 1,010.86 miles.

Cost at $30,000 per mile	$30,325,800
Gross earnings	2,509,783
Operating expenses and taxes	1,489,584
Net earnings	1,020,199
Per cent per annum, .033.	

Total number of miles, 5,070.

Total cost at $30,000 per mile	$152,100,000
Total gross earnings	23,074,497
Total expenses and taxes	15,028,699
Total net earnings	8,045,798
Average per cent, .052.	

For the year ending June 30, 1890, the Chicago, Burlington & Quincy railroad had a total length of 2,213.37 miles.

Cost at $30,000 per mile	$66,401,100
Gross earnings	7,944,142
Operating expenses and taxes	4,864,653
Net earnings	3,079,489
Per cent per annum, .046.	

For the year ending June 30, 1890, the Chicago, Kansas & Nebraska railway had a total length of 141.28 miles.

Cost at $30,000 per mile	$4,238,400
Gross earnings	390,802
Operating expenses and taxes	294,525
Net earnings	96,277
Per cent per annum, .021.	

For the year ending June 30, 1890, the Chicago, St. Paul, Minneapolis & Omaha railway had a total length of 240.18 miles.

Cost at $30,000 per mile	$7,205,400
Gross earnings	1,170,322
Operating expenses and taxes	846,496
Net earnings	323,826
Per cent per annum, .044.	

For the year ending June 30, 1890, the Fremont, Elkhorn & Missouri Valley railway had a total length of 1,010.40 miles.

Cost at $30,000 per mile	$30,312,000
Gross earnings	2,585,348

Operating expenses and taxes	$1,764,591
Net earnings	820,757

Per cent per annum, .027.

For the year ending June 30, 1890, the Kansas City, Wyandotte & Northwestern railway had a total length of 20.10 miles.

Cost at $30,000 per mile	$603,000
Gross earnings	49,096
Operating expenses and taxes	73,048

Deficit, $23,952.

For the year ending June 30, 1890, the Missouri Pacific in Nebraska had a total length of 322.22 miles.

Cost at $30,000 per mile	$9,666,600
Gross earnings	1,950,248
Operating expenses and taxes	1,401,736
Net earnings	548,512

Per cent per annum, .056.

For the year ending June 30, 1890, the Union Pacific system had a total length of 1,188.92 miles.

Cost at $30,000 per mile	$35,667,600
Gross earnings	7,079,127
Operating expenses and taxes	4,798,207
Net earnings	2,280,920

Per cent per annum, .063.

Total number of miles of road for 1890, 5,136.47.

Total cost of road	$154,094,100
Total gross earnings	21,169,085
Total expenses and taxes	14,043,256
Total net earnings	7,126,829

Average per cent, .046.

For the year ending June 30, 1891, the Fremont, Elkhorn & Missouri Valley railway had a total length of 1,012.14 miles.

Cost at $30,000 per mile	$30,364,200
Gross earnings	2,950,420
Operating expenses and taxes	1,684,886
Net earnings	1,265,534

Per cent per annum, .0416.

For the year from June 30, 1890, to July 31, 1891, the Chicago, Burlington & Missouri River railroad had a total length of 3,135.74 miles.

Cost at $30,000 per mile	$94,072,200
Gross earnings	4,572,073
Operating expenses and taxes	3,382,626
Net earnings	1,189,447

Per cent per annum, .01264.

In obtaining the net earnings of the railroads for the years 1889 and 1890, we have been compelled to figure on a mileage basis. By that we mean taking the earnings of the roads as a whole, and taking that proportion of the whole net earnings as the miles of the system in Nebraska bear to the entire mileage; which manner of figuring makes the roads in Nebraska earn the same amount per mile as in the states of Illinois, Iowa, Missouri, and any other states into which the system extends.

Third—We find that the local rates of Nebraska are as low as those of other states similarly situated, and the following tables of comparative local rates are conclusive evidence of these findings: (See Exhibit "A.")

Exhibit A.

Classes 1, 2, 3, 4, 5, A, B, C, D, E, in Cents per Hundred Pounds.

	1	2	3	4	5	A	B	C	D	E	Soft coal per ton.	Hard coal per ton.
25 Miles.												
Nebraska	22	19	17	14	10	10	9	7	6	3.5	$0.60	$0.60
South Dakota	24	19	17	14	10	10	9	8	8	6	1.00	1.30
Kansas	22	19	17	14	10	10	9	7	6	4.5	.90	1.17
Colorado	24	19	17	14	10	10	9	8	8	6	1.00	1.30
Wyoming	24	19	17	14	10	10	9	8	8	6	1.00	1.30
Missouri	25	20	16	13	11	11	9	8	7	5	.65	.97½
Minnesota	22	18	15	11	9	9	8	7	6	4	.....	.....
Iowa—"A"	17	14.45	11.34	8.5	5.95	6	5.95	5.1	4.24	3.4	.46	.76
Iowa—"C"	22.1	18.79	14.74	11.05	7.73	7.8	7.73	6.63	5.57	4.42	.60	.98
100 Miles.												
Nebraska	52	45	40	35	30	24	16	14	10	7	1.20	1.20
South Dakota	55	45	40	35	30	27	19	15	15	11.25	1.60	2.08
Kansas	52	44	38	31	27	24	16	14	10	7.5	1.50	1.95
Colorado	55	45	40	35	30	27	19	15	15	11.25	1.60	2.08
Wyoming	55	45	40	35	30	27	19	15	15	11.25	1.60	2.08
Missouri	46	36	27	21	17	17	15	13	11	9	1.00	1.50
Minnesota	40	33	27	20	16	16	14	12	10	8	.....	.....
Iowa—"A"	24	20.4	16	12	8.4	9	8.4	7.2	6	4.8	1.00	1.36
Iowa—"C"	31.2	26.52	20.8	15.6	10.92	11.7	10.92	9.36	7.8	6.24	1.30	2.00
200 Miles.												
Nebraska	74	66	59	47	42	35	27	23	17	10.5	1.80	1.80
South Dakota	72	61	47	36	29	29	25	21	18	14	2.45	3.18½
Kansas	73	65	58	46	41	34	26	22	16	12	2.45	3.18½
Colorado	72	61	47	36	29	29	25	22	18	14	2.45	3.18½
Wyoming	72	61	47	36	29	29	25	22	18	14	2.45	3.18½
Missouri	73	54	49	37	28.5	30.5	23.25	18.75	15.75	14	2.45	3.18½
Minnesota	60	50	40	30	24	24	21	18	15	12.05	1.50	2.25
Iowa—"A"	40	30.2	23	18.6	14.2	15.9	13	11.1	9.39	8	.....	.....
Iowa—"C"	52	39.26	29.9	24.18	18.46	25.67	16.9	14.43	12.05	10.4	1.30	2.00
300 Miles.											1.69	2.60
Nebraska	83	75	68	56	51	44	36	27	20	15	2.80	2.80
South Dakota	92	78	60	46	37	37	32	28	23	18	.....	.....
Kansas	83	75	68	56	51	41	34	27	21	16	3.25	4.22
Colorado	92	78	60	46	37	37	32	28	21	16	.....	.....
Wyoming	92	78	60	46	37	37	32	28	21	16	.....	.....
Missouri	83	67	59	43.5	33.5	35.5	25.75	21.25	17.75	15	2.00	.....
Minnesota	75	63	50	38	30	30	26	23	19	15	.....	.....
Iowa—"A"	56	40	30	25	20	22.5	17.5	15	12.5	11	1.50	2.40
Iowa—"C"	72.8	52	39	32.5	26	29.25	22.75	19.5	15.25	14.3	1.95	3.12

CLASSIFICATION OF IOWA ROADS.

It will be noticed in the above table that we have given rates for "A" and "C" roads in Iowa. In explanation of this we will state that in Iowa the law has divided railroads in that state into three classes as follows: All roads whose gross earnings are $4,000 per mile or over are "A" roads. All roads whose gross earnings are not less than $3,000, and under $4,000 per mile, are "B" roads. All others are "C" roads. The schedule rates of Iowa are the rates for "A" roads. "B" roads are allowed to charge 15 per cent and "C" roads 30 per cent more than "A" roads. If Nebraska railroads were so classified they would be as follows: Burlington & Missouri River in Nebraska proper, from Plattsmouth to Kearney; Omaha & Southwestern; Atchison & Nebraska; all operated by the Chicago, Burlington & Quincy Railroad Company, and the Union Pacific Railway trunk line, from Omaha to state line, would be the only "A" roads. And the Nebraska, Republican Valley, Omaha, and North Platte roads, operated by the Chicago, Burlington & Quincy Railroad Company, and the St. Joseph & Grand Island, operated by the Union Pacific railroad, and the Missouri Pacific, and the Fremont, Elkhorn & Missouri Valley railway, and the Sioux City & Pacific, operated by the F., E. & M. V. railway, and the Chicago, St. Paul, Minneapolis & Omaha railway would be "B" roads. And the Lincoln & Northwestern, Nebraska & Colorado, Grand Island & Wyoming Central, Republican Valley & Southwestern, Lincoln & Black Hills, Oxford & Kansas, Republican Valley & Wyoming, and the Chicago, Nebraska & Kansas, being operated by the Chicago, Burlington & Quincy Railroad Company, and the Kansas City, Omaha & Republican Valley, operated by the Union Pacific Railway Company, and the Chicago, Kansas & Nebraska, Kansas City & Beatrice, and Pacific Railway in Nebraska, and Nebraska & Western would all be "C" roads, making five "A," eight "B," and fifteen "C" roads in this state. "A," 479.46 miles; "B," 2,393.42 miles; "C," 2,267.41 miles.

LOW LOCAL RATES.

Fourth—We further find that the coal rates of Nebraska are lower than any other western state, for proof of which we call your attention to the above comparative tariff rates, Exhibit "A."

Fifth—We find that the rate on wheat shipped for milling purposes in Nebraska compare very favorably with the rate of Iowa, as the following table will show:

Wheat for Milling.

Miles.	States.	Rates in cents per hundred.
25	Iowa	4.43
25	Nebraska	4.75
50	Iowa	5.25
50	Nebraska	6.375
100	Iowa	6.75
100	Nebraska	9.75
200	Iowa	9
200	Nebraska	12
300	Iowa	11.25
300	Nebraska	12
400	Iowa	13.5
400	Nebraska	13.2

Sixth—That the rate on live stock to the markets of Lincoln and Omaha are lower than the local distance rates and are more favorable to the producer than the rates, of other states and are as favorable as those of Iowa, as the following comparative table will show:

Cattle—Carload.

Miles.	State	Rate per car.	In cent per cwt
25	Iowa		.0671
25	Nebraska	15.40	.0616
50	Iowa		.0868
50	Nebraska	19.80	.1132
100	Iowa		.80
100	Nebraska	29.70	.1188
200	Iowa		.1553
200	Nebraska	38.50	.154
250	Iowa		.1789
250	Nebraska	45.10	.1808
300	Iowa		.2002
300	Nebraska	50.60	.2014

The cattle rates in Iowa are based on cents per hundred, and in Nebraska on dollars per car. Statistics show that in a thirty-six foot car the average car load is 25,000 pounds. Figuring on that basis the rate to market would be as above shown.

LOCAL AND THROUGH RATES.

Seventh—We further find that it is of vital importance to protect in every way the producers in this state, and that in order to do so the lowest possible through rate on the farm product must be obtained and maintained. That the local rate, which means the rate between station

and station, within the state, is of small significance as compared with the through rates, and is of no interest to the farmer, as everything he uses is shipped to distributive points, such as Omaha, Lincoln, Hastings, Beatrice, and Fremont on a through rate and then sent out over the state on what is known as distributive or jobbers' rates, which are much lower than the local rates now in force; and that all of his grain goes out of the state on a through rate, which at the present time is a far better rate than Iowa enjoys. As example, we cite the fact that at a recent sitting of the interstate commerce commission at the city of Omaha the Iowa farmers made complaint to that body and produced absolute proof that this state has better market rates for its products than Iowa. We cite the rate on corn from Creston, Ia., 396 miles from Chicago, as compared with rates from Venango, Neb., 872 miles from Chicago. Creston, 17 cents per hundred pounds for corn; and from Venango, 25 cents per hundred pounds; making 17 cents per hundred pounds for 396 miles' haul for the Iowa shipper and an additional 8 cents for an additional haul of 476 miles for the Nebraska producer.

Eighth—We further find that the railroads are not in a condition to stand, nor does their net earnings, figured on a basis of cost of $30,000 per mile and not what they claim they cost, justify any cut in local rates of this state at the present time; and further, that a reduction in the local rates in this state would increase the through rates to market for our grain and would be a blow at the industry of the state. This last finding is fully established by the fact that the Board of Transportation reduced the local rates on hard coal 60 per cent, and yet the price to the consumer was not lowered nor the price at the mines raised, which shows conclusively that the through rates must have been raised.

RECOMMENDATIONS.

In submitting this report we have presented the facts and figures as we find them from evidence obtainable, from sworn reports now on file in our office. And we would respectfully recommend that no action be taken that will in any way jeopardize the interests of the producers of Nebraska, but that all interests be protected in the fullest manner possible, as provided by the foregoing findings.

W. A. DILWORTH,
J. N. KOUNTZ,
J. W. JOHNSON,
Secretaries.

P. S.—In regard to the complaint of Charles H. Johnson, of Norfolk, we make no report at this time for the reason that it is a local matter concerning discrimination against the city of Norfolk and does not properly come in this report, but will be further attended to at once.

FINDINGS OF THE BOARD.

After a careful and quite thorough investigation of the question of freight rates in Nebraska, which has occupied much time, and has taken a wide range, the State Board of Transportation has arrived at the conclusion, that the rates now in force in this state cannot be generally reduced without doing violence to the business interests of the state, and at the same time injuring the shipping and producing classes.

We have come to this conclusion, not by taking the cost of construction and equipments nor the amount of stock and bonds issued per mile, but by making our computations upon the basis of what it would cost to duplicate the property at the present time.

It has been our endeavor to deal fairly and justly with the question, and in arriving at a conclusion we have been governed only by the evidence, statements, and facts produced for our consideration.

A candid examination and comparison of the figures presented to us in the unanimous report of the board of secretaries, in the opinion of this Board, fully justifies the conclusion reached: that a general reduction of the rates, as now in force over the state, is not practical at this time.

There may be, and probably are, cases existing where towns, cities, and communities are being discriminated against unjustly by the common carriers. These matters the Board will remedy whenever such a case is brought to their attention.

The Board is not unmindful of the fact that a large number of our citizens are earnestly and honestly demanding a general reduction of rates at our hands, and are of the opinion that, as a matter of right, a sweeping reduction should be made. We ask only, at the hands of all such, a careful examination of the schedules presented, which have been authenticated by the board of secretaries, and a candid judgment thereon.

Should conditions change so that railroad investments could be made to pay more than a fair percentage on actual values, then it would be not only right but exceedingly fit, that a general reduction be made; nor would this Board hesitate to so order and enforce such an order with all the means at its command.

Q. That report was published in the Sixth Annual Report of the Nebraska Board of Transportation, was it not?

A. I think that was the report that was published here, ending June 30, 1892.

Q. Extending from page 94 to 121, both inclusive, of the report?

A. Yes, sir.

Plaintiffs offer in evidence the report referred to, being marked Exhibit "21."

The State Board of Transportation objects to the introduction of the document, Exhibit "21," as incompetent as evidence, as irrelevant and immaterial. My objection is not upon the proposition that it is not certified to. The Board further objects for the reason that it does not relate to any matter in regard to which this witness has been examined, and for the further reason that it is not pertinent to the issue in this cause.

By Mr. Woolworth:

The plaintiffs give notice that on the hearing of this cause they will introduce and put in evidence the map of this state, showing the railroads therein, published by the Board of Transportation, and also maps of the systems of the several companies.

RE-DIRECT EXAMINATION.

By Mr. Webster:

Q. With reference to this report, just referred to in the last part of the cross-examination by Mr. Woolworth,

let me ask you whether at that time, the Board, so far as you knew, had any opportunity of examining the accounts of the railway companies as kept in their offices, touching the expenditures or income of the companies, or whether or not the only evidence before the Board in that line was not simply such as the railroads saw fit to bring before the Board?

A. That was the only evidence that was produced to the Board.

Q. Then, further, is it not true that the Board did not appoint secretaries, or agents, or other persons, to go to the offices of the companies to examine into their accounts?

A. That is true; yes, sir.

Q. In a measure, then, was it not true that the testimony taken by the Board was purely *ex parte* testimony, that is to say, such testimony as parties voluntarily presented to the Board for its consideration.

A. The way the meetings were held, the meeting was opened by the Board. The chairman announced the meeting was held for the purpose of hearing any complaint or anything any one had to say touching the question of whether the local rates on the railroads should be reduced, and if any one got up and made a statement or offered any figures, his statement and figures were taken, and if they did not, that ended it.

Q. Then, there was no compulsory attendance of witnesses for the purpose of being examined by the Board?

A. No, sir.

Q. Then, it lacked all the elements of a judicial procedure so far as the summoning of witnesses was concerned?

A. Yes, sir; the only thing like a judicial investigation; the railroads offered some testimony, and some gentleman appeared for himself, and other people on behalf of himself, and asked them questions touching the matter that had been tendered in evidence by the railroad people.

Q. Then, in short, all the Board had before it was simply such information as parties voluntarily brought before it and submitted to the Board?

A. Yes, sir.

Q. In addition to that you had such reports as the railroad companies made to the State Board of Transportation?

A. The Board proper, probably, did not refer to those reports, but in making up our findings and recommendations as secretaries we did look at those reports to some extent.

Q. You never went back to the railroad companies to investigate whether those returns were true or not, did you?

A. No, sir.

Q. Then it was upon such limited and meagre investigation these secretaries were obliged to act in making their report?

Objected to by Mr. Woolworth for it does not appear that the investigation was meagre; on the other hand it was as thorough as it could possibly be.

A. Yes, sir.

Q. After the secretaries had made their report is it not true that the board, in acting upon that report, found among other things as follows, to wit: "Should conditions change so that railroad investments could be made to pay more than a fair percentage on actual values, then it would be not only right but exceedingly fit that a general reduction be made; nor would this Board hesitate to so order and enforce such an order with all the means at its command?"

A. Yes, sir; that is my recollection of one of the findings of the Board proper.

Q. Did not the Board further find as follows, to wit: "The Board is not unmindful of the fact that a large number of our citizens are earnestly and honestly demanding a general reduction of rates at our hands, and are of the opinion that, as a matter of right, a sweeping reduction should be made?"

A. Yes, sir, I think I recollect that portion of it.

Q. Did not the Board further find the following: "There may be, and probably are, cases existing where towns, cities and communities are being discriminated against unjustly by the common carriers?

A. Yes, sir, I think that is one of the findings.

Q. Are not those facts embodied as an addenda of the report made by the secretaries, and found in the pamphlet which Mr. Woolworth presented to you on cross-examination, and found on page 24 of said pamphlet?

A. Yes, sir; that is the action of the Board proper upon the recommendations and findings of the secretaries.

Q. Further, Mr. Dilworth, was not this investigation held and report made just after a time when there had been almost an absolute failure of crops in the state of Nebraska, and when there existed the most distressing condition of affairs throughout the farming districts of the state?

A. Yes, sir; there was pretty near what might be termed a failure the previous year.

Q. And did not that failure of crops which produced that depression extend almost over the entire region of the State of Nebraska?

A. Yes, sir; I think it extended almost everywhere pretty generally.

Q. Was not that great depression brought about by almost an absolute failure of crops in the State of Nebraska, a fact that was taken into consideration by the Board of Transportation and its secretaries in dealing with the condition of affairs as they then existed in this state?

A. The way that I looked at it individually was this, and I think the other secretaries did, too; we had an awful hard year, not only for the farmers, but for the railroads, too, and that at the time we made this report there was then quite an amount of grain to be shipped, and we thought it was only fair that the existing circumstances should not be changed in any way until after business had kind of recuperated, and the people and the railroads were in better shape, and for the reason also, that if we went to

interfering with the local rates, possibly the roads might retaliate by raising the through rates on grain, over which we had no control, and in that respect it would cause an injury to the business of this state.

Q. Was not it true at that time, by reason of the extensive failure of crops just mentioned that there was little or no products within the limits of the state to be shipped from point to point or from any point within the state to outside points?

A. At that time there was very little local shipment, so far as that is concerned, from point to point in the state.

Q. Was it not true at that time that the State of Nebraska, by reason of the failure of its crops, was more interested in having reasonable through interstate rates, so as to bring into the state the articles from points outside of the state, than the state was interested in freight rates between local points?

A. That is the way we looked at it exactly.

Q. And did not that consideration also enter into your minds in arriving at the conclusions reported by the secretaries?

A. Yes, sir.

Q. Since that time have not the internal conditions of the state changed in this particular; that for the years since then the products of the farms have been much greater than they were at the date of the report or the year previous?

A. I think so, on the whole; yes, sir.

Q. Then it is true, is it not, that the conditions have

entirely changed so far as local shipments would be concerned?

A. I think the local shipments have increased in the last three or four years to a pretty large extent to what they were before.

Q. Have not those local shipments increased in tonnage in a much greater ratio than the ratio of the reduction in rates which would be brought about by the enforcement of the law in controversy?

A. Well, I think that would be about six of one and half a dozen of the other, I think would probably be true.

Q. Mr. Dilworth, have you observed so as to be possessed of knowledge on the point whether or no the tonnage upon the roads is increased or diminished by the reduction of the rates, and if so, what has been the results of the knowledge and observation upon that point?

A. There is no question—I think it would not be disputed that a reduction of rates will increase the tonnage.

Q. Have you observed such an effect upon any of the lines within the limits of the State of Nebraska?

A. Yes, sir; we had one very forcibly brought to our attention in the last two months.

Q. State what that was.

A. That was the commodity of hay upon one of the lines of road in this state; they have quite an extensive country that has hay lands and up to 1890 and 1891, in May they had a rate put in there, and there had been only about 13,000 or 14,000 tons of hay shipped.

Q. Name the road?

A. The Fremont, Elkhorn & Missouri Valley Railroad. In May, 1891, they reduced the rate on hay from points in this state on their line to the City of Omaha, the hay market.

Q. State the rate of reduction?

A. The reduction I think was fifty per cent., from twenty-five to fifty per cent. is my recollection of the rate, and the hay business increased from the 13,000 or 14,000 tons up to the present year, when it will amount to between 50,000 and 60,000 tons of hay.

Q. Then a reduction of twenty-five to fifty per cent. on the rate increased the tonnage some 500 per cent.?

A. 400 per cent., something like between 400 and 500 per cent., yes, sir.

Q. Have you been familiar with the reduction of rates in the State of Iowa under the law passed by the Legislature of that state?

A. I do not know what reduction was made, but they made quite a low local rate in that state several years ago.

Q. Are you familiar with the fact that such a reduction was made by the State of Iowa?

A. Yes, sir.

Q. Are you prepared to state since then what has been the effect upon the amount of tonnage upon roads since such reduction as to whether the amount of local tonnage increased or diminished, and if increased, to about what extent?

A. I cannot tell what extent, but it has increased there so that the roads have made net earnings on their Iowa business, more than they did previously.

Q. More than they did before the reduction of rates?

A. Yes, sir.

Q. So that you understand that the railroads of Iowa have made more money since the reduction of rates than they did before?

A. More net money, yes, sir.

Q. As an officer connected with the State Board of Transportation, and from your knowledge and observation upon that subject, what would you say would be the effect upon the railroads of the State of Nebraska by the enforcement of the law in controversy, as to whether or not it would increase or diminish the local tonnage?

A. I think it would increase the local tonnage.

Q. State whether or not such increase would not be such that the railways would make as much money by the enforcement of the rates as they make now by retaining the old rates?

A. Well, history tells us that they probably would, and I believe that they would clean up as much money as they do now?

Q. Well, the shipper would be benefitted by the reduction of the rates, and the railroad company not injured, but rather benefitted?

A. Yes, the local shipper.

RE-CROSS-EXAMINATION.

By Mr. Woolworth:

Q. There has been a greater depression in this state in the last half year than there ever was before, has there not?

A. Well, not amongst the farming community. There has been in the general business sense of the word, but the farmers probably have not felt the reason of it as much as the business people have.

Q. How has it affected the railroads?

A. Well, I know what they claim.

Q. Don't you know what the effect is; you have been talking about this matter a good deal, what is the fact?

A. The fact is there has not been so much through shipment of grain and live stock business as there has been in previous years.

Q. Has not that reduction been very severe indeed?

A. I think they have felt the effect of business the same as other business people have for the last six months.

Q. So that conditions have changed much more unfavorably to the railroads than ever before, is not that so?

A. In the last two months, Mr. Woolworth, the railroads have done a pretty fair freight business—grain business—in this state.

Q. That grain business is grain going out of the state, is it not?

A. Yes, sir.

Q. Not local business?

A. No, sir.

Q. Has not the local business been almost wiped out by the terrible depression we have had from the first of June, 1893, to the first of January, 1894?

A. The local business in this state, under the system of rates they have been having, has been the distributing of merchandise coming into the state and the local shipments of stock to South Omaha, and the hay shipments, and the lumber out of Omaha and Lincoln; and, as a matter of fact, there has been less of those shipments, I suppose, than there has been in previous years, because the merchants have run their stock down to the lowest limit it is possible to do business with, and the cattle market for the last four or five months has been unsatisfactory; and, I presume, as a matter of fact, that the local business has fallen off some, if not a great deal.

Q. Has it not fallen off 33⅓ per cent.?

A. I have not figured how much it has fallen off, but it would not surprise me if it had during these hard times.

Q. What year was it we had a failure of crops?

A. '90.

Q. In '91, you say we had a large quantity of grain to ship, didn't you say so?

A. That was the grain we expected to harvest that summer and fall.

Q. And you made this report in view of the large crop of that year?

A. We expected there would be a large crop that

year, and we did not want to do anything that would endanger the moving of that crop, that is one consideration that entered into that report. As a matter of law, of course, the local rates and through rates have no connection, but as a matter of railroad regulation they sometimes have a very close connection.

Q. You mean by that, practically, local rates affect through rates, but they do not affect them legally?

A. No, sir; I do not mean that. I mean this, that if the railroad companies were to lose on one kind of business they would try and make it up on another kind, and that was the idea that was in my mind.

Q. Do you think that the single fact of the reduction of local rates in Iowa has increased the tonnage there, or have a number of other facts entered into that problem?

A. I could not say as to that, only that I draw the conclusion that the local rates were put in force and since that time that the business of the railroad companies, the tonnage, has increased, and they make more net money than they did before. Now, what caused that besides the local rates, I do not know. The railroad commissioners of that state laid it all on to the local rates.

Q. What you have stated on that subject is derived altogether from the reports of the commissioners of the state, and not from a personal knowledge of the business in that state?

A. Yes, sir; it is derived from reading the reports, and

not only those reports, but statements that Iowa people have made on the railroad question.

Q. The hay case that you have spoken of is a very exceptional case, is it not?

A. Well, there are other cases. I think that there are other cases as strong as that. That was the one that was prominent in my mind. I don't suppose there are any others that have increased as much as that; possibly there is.

Q. Can you name another that has increased half as much as that?

A. Yes, I think this: that the paper mill here at Lincoln, when it was running, on account of obtaining a low rate on coal and a low rate on straw from points within sixty miles from Lincoln, increased the local shipments on paper, and upon straw fully as much, if not greater, than on the Elkhorn road in the hay matter; and also the shipment of brick has been increased by a low local rate. For instance, the Buckstaff Company here at Lincoln are enabled to make paving brick by shipping the clay from Table Rock up here and mixing it with the clay they get of their own here, and they make the paving bricks for the city here. That was a business built up entirely by the low local rate. Those instances I have in my mind.

Q. Has the rate on brick been increased lately?

A. Not that I know of.

Q. Has the rate on straw and the other things been increased lately?

A. I do not think so, but Buckstaff had a fire here and

got burned out, and that has interfered with their brick operations to some extent, and the paper mill, I don't know what condition that is in now, but I know that Mr. Utt, their manager, told me that if it had not been for the low local rate that they had been the beneficiary of they could not have done business in the state.

Q. Is that paper mill running now?

A. I do not know whether it is or not. I am rather under the impression that they went out of business because the railroad companies threatened to put up the rate; said they were compelled to under the provisions of the Newberry bill. I don't know whether that is the reason they went out or not.

Q. They carried the material for that concern a great deal below the Newberry bill?

A. That is what I am informed, yes, sir, by Mr. Utt, the manager. Another thing I want to state is this, that the low local rate has allowed the farmers to raise sugar beets anywhere from 40 to 50 miles away from the place where they are ground up, and where the sugar factories are, and it has created an industry of that kind where before there was none.

Q. There was not any sugar beets raised, was there?

A. They were not raised because they could not afford to raise them.

Q. There wasn't any sugar mills to take them, was there?

A. The first thing the sugar men did they went to the railroads to see if they could get the rates reduced?

Q. Did they get them reduced?

A. Yes, sir; they got a very low rate on beets, and the railroad got that business.

Q. They did that to encourage those enterprises, did they not?

A. Yes, sir, and to create business for themselves, I suppose, too.

Q. Is it not a fact that the local roads in Iowa are today suffering very severely on account of the depression of business?

A. I have understood that some of those little roads running north and south there, that commence nowhere and end nowhere are suffering some.

Q. Are not they suffering very severely, indeed?

A. I have heard they are going to try and make an effort to get the local rates raised, they claim they are suffering so.

Q. Has not the increased tonnage in Iowa came very largely from the coal from mines which have been lately opened?

A. Well, I have never investigated to see if I could tell where it did come from, beeause I am not sufficiently conversant with the situation over there to tell whether it is the local freight or whether it is the through freight. For instance, if a carload of coal would be reported as having started from some town, some mine there, I would not be

able to tell whether it stopped in the state or out of the state.

Q. That is an element in this matter you have not taken into account at all, in speaking of the increased tonnage of that state?

A. It is just in a general way I was speaking about the increased tonnage, the increased net earnings of the railways.

OMAHA, Thursday, April 12, 1894, 2 P. M.

Pursuant to agreement, the further taking of testimony in behalf of defendants is resumed at the office of J. M. Woolworth, as follows:

Present:

J. M. WOOLWORTH,

Solicitor for Complainants.

JNO. L. WEBSTER,

G. H. HASTINGS,

W. A. DILWORTH,

Solicitors for Defendants Members of the State Board of Transportation.

W. A. DILWORTH, recalled by defendants, testified as follows, viz:

DIRECT EXAMINATION.

By Mr. Webster:

Q. Are you familiar with what is known among railroad men as classification of freights?

A. Yes, sir.

Q. You may state, Mr. Dilworth, if you know how frequently these classifications, or what are called classifications are changed?

A. There is a new book gotten out every six months, and every few days there are amendments or alterations to the existing classification, and those amendments keep accumulating until the end of six months, when the new classification is gotten out again on the first of January and first of July. I am speaking now of the western classification; that is the only one that I have much experience with.

Q. Can you give some notion of about how many different times or how frequently during the period of six months changes are made in the classifications by the railroad men?

A. I should think on an average that there would be at least twice a week they would send sheets either amending or adding to the classification.

Q. Who issues these books showing the classification and also these sheets or letters showing changes in the classification?

A. I understand that there is a classification committee that is composed of representatives from each of the railroads in their association, and they have a sub-committee that is in session nearly all the time, but the chairman, Mr. Ripley, it is his exclusive business to look after this matter and to send out these amendments or alterations.

Q. Have you examined the law in controversy in this

suit commonly spoken of as the Newberry bill, so as to be able to state whether the classification in that law conforms substantially to a classification heretofore existing and issued by this railroad committee?

A. Yes, sir.

Q. Do you mean by that "yes", that you know of that fact, or that you know it conforms to what was an existing classification issued by the railroad companies?

A. Well, both.

Q. Do you know whether any authority is reserved in that law to the State Board of Transportation to make changes in the classification as set down in that law to conform to them, proper or necessary changes in that respect?

Objected to by Mr. Woolworth, as the law will show for itself?

A. Yes, sir; there is the same power, as I construe it, reserved to the Board of Transportation to change this classification as there is to the committee for changing their classification; with this limitation, so that the change in the classification shall not raise the rates.

Q. How long have you been connected with the State Board of Transportation as one of its secretaries?

A. Three years the first day of next month.

Q. During that period of time do you know whether or not the railway companies have made changes in the inter-state rates for the transportation of freight without at the same time making any changes in the local rates?

Objected to by Mr. Woolworth as immaterial.

A. Yes, sir.

Q. Can you state about how frequently such changes have been made in the inter-state rate without any corresponding or other change in the local rates?

A. That would be a pretty hard question to answer, how frequently. I remember it has been done in several instances. One that I remember is the grain rate that they changed the 10th of last June, and it did not affect the local rate on grain in this state.

Q. When you speak of the inter-state rate changed on grain, state a little more particularly the inter-state rate between what points?

A. At all points in the state west of the Missouri River line there was an increase in grain rates of from one to four cents a hundred pounds.

Q. To where?

A. To Chicago.

Q. At the time when that increased inter-state rate was made on grain, was there any increase or diminution of the grain rate on local shipments?

A. No, sir.

Q. And had there been within any short time, or period of time prior thereto, any increase in the rates for local shipments of grain to justify or call for the increased inter-state rates on grain?

A. No, sir.

Q. Now, do you know of there being any change of the interstate rate on live stock from points beginning in the

State of Nebraska, on shipments to Chicago or other eastern points, without any corresponding change on local rates on live stock shipments?

A. Not very recently; I think here a couple of years ago there was a change made in live stock rates to Chicago, without any change in the local rates in the state.

Q. Now, do you know of changes being made by the railway companies affecting rates on local shipments without at the same time there being any change in the inter-state shipments upon like articles?

Objected to by Mr. Woolworth as immaterial:

A. This winter there was a change in lumber rates from Lincoln; my impression is it included Nebraska City and Omaha, to points in western part of the state on the Burlington and there was no corresponding change in the inter-state rate on lumber.

Q. What was the nature of that change on local shipments on lumber, an increase or decrease?

A. That was an increase.

Q. At the time of that increase on local rates on lumber was there any corresponding change or increase on through rates or inter-state rates on lumber?

A. No, sir; not that I know of.

Q. Under the law and the practice prevailing between these railroad companies and the State Board of Transportation, do the railway companies officially inform the State Board of Transportation of these changes?

A. Yes, sir.

Q. Was your Board thus notified by the railway company of these changes which you have spoken of in your testimony?

A. Yes, sir.

Q. I now wish to draw your attention to the manner in which rates are established from points eastward but terminating on the west at the Missouri River, and then on the lines which run west from the Missouri River, particularly through the State of Nebraska, and ask you to state, as you are informed, in some general terms, how those rates are established, and where the dividing line comes between the two different rates?

A. Well, the rates from the east to points in Nebraska on all articles shipped under what is termed the class rates, that includes everything except a very few commodities, the rate is made up by the rate from the point east to the Missouri River, and from there the local rate is added to the rate to the Missouri River to make the through rate to points in Nebraska. That takes in all points in Nebraska west of a line drawn north and south through the City of Lincoln, except that it does not go further north than Fremont, is my recollection. Lincoln has what they term a differential rate that virtually places it and all intermediate points, that is points between it and the Missouri River, on the Missouri River, so far as a distributing point is concerned. For instance, on first class freight, they only pay five cents a hundred more from Chicago than the Missouri River points

do, and they have a corresponding decrease on the rates out to points in the state.

Q. How much longer is the haul from Chicago to Lincoln than it is from Chicago to the Missouri River?

A. Fifty miles it is generally termed, about 55 by railroad.

Q. By that do you mean, then, that shipments to Lincoln, that the Lincoln consignee only pays 5 per cent. more than the man who receives his consignment at the Missouri River?

A. He pays his five cents a hundred more on first class freight and the same proportion on the other class rates.

Q. Is that, or is it not, by reason of what you have spoken of as differential rates?

A. Yes, sir.

Q. Explain what you mean by differential rates?

A. That is a rate, as I understand it, that is put in to equalize the differences between distributing points, that is, these differential rates put Lincoln on the same footing as Omaha, taking into consideration the rates out of Lincoln, and it is a rate that is arbitrarily made between points without any other consideration than the discretion of the railroads.

Q. Then, is it, or is it not measured by the length of the haul, or is it made according to any arbitrary action of the railroad management?

A. It is not measured by the length of the haul; the

only thing that is considered is simply the action of the railroads in putting it in themselves.

Q. Then another question; is that differential rate by which the goods you have spoken of are delivered at Lincoln, at the rate named by you, less than the local rates for hauling freight the same number of miles, through other territory within the State of Nebraska?

A. Yes, sir.

Q. About how much less is it; by that I mean the percentage or ratio?

A. I believe it is one-fourth; that would be my idea of it now. I think the rate on first class for fifty miles is about nineteen cents, fourteen to nineteen, and this other is only five cents?

Q. By that you mean if the same railroad hauled that freight a distance of fifty-five miles over some other territory in the State of Nebraska, it would charge nineteen cents, whereas, under this differential it charges from the Missouri River to Lincoln, but five cents?

A. Yes, sir; if I am not mistaken in the figures; and I think it is nineteen cents.

Q. Is that differential rate charged on this class of freight from the Missouri River to Lincoln less than the rate which would be charged if the railroads complied with the present law, to wit, the Newberry bill?

A. Yes, sir; it is less than the Newberry bill, considerably so.

Q. Can you tell about how much it is less than the rates as fixed by the Newberry bill?

A. I believe it is about the same; I think on the short distances the Newberry bill and the old law read about the same; for the first fifty miles there is not a great deal of difference between them.

Q. What I want is how much this differential rate of five cents per hundred from the Missouri River to Lincoln is less than the rate which would be fixed by the Newberry bill for transporting the same freight over the same distance of mileage?

A. I think it is only one-third.

Q. One-third as much as the Newberry bill?

A. Yes, sir.

Q. In other words if the railroads complied with the Newberry bill they could charge on this freight from the Missouri River to Lincoln about three times as much as the rate which the railroads themselves have in force?

A. Yes, sir.

Q. How long has this differential rate you have spoken of been in existence?

A. Since 1887 or 1888, I think; it has been in existence ever since I have been on the Board.

Q. Now, you may state then, Mr. Dilworth, whether or no the use of that differential rate has or has not been an advantage to the people living in Lincoln over and above any advantages given by the railroad people to other points

of the State of Nebraska where the mileage hauled a like distance?

A. Most assuredly.

Q. Then as I understand it, you mean by that that this differential rate has merely been an advantage which the railroad companies have given to Lincoln as against other agricultural regions of the state?

A. The effect of that is to place Lincoln, so far as freight is concerned, on the Missouri River banks.

Q. That practically gives them an advantage of fifty-five miles of haul without paying for it, does it not?

A. Yes, sir.

Q. Now, Mr. Dilworth, can you give a further answer by way of illustration to show whether or not that difference in rate that you have been describing is a reasonable or an unreasonable rate?

Objected to by Mr. Woolworth as immaterial.

A. There can only be one of two conclusions drawn from these facts, that; first, the rate from the east to the Missouri River is below a reasonable figure, and that the roads that come no further west are not receiving a just compensation for business done by them for a number of years, or; second, that the system of making rates to interior points in Nebraska as used by the companies is not right and that the rate made in conformity thereto is unjust and unreasonable, and discriminating against all points in Nebraska that are west of Lincoln. That city has virtually Missouri River rates; the business men at that place made a

fight for such rates and succeeded. The rate to Lincoln from the east is on articles in first class only five cents per hundred pounds greater than to Omaha, making a rate of one mill per hundred pounds per mile for fifty miles.

Beside that concession it has obtained from the roads a lower rate out than Omaha for all class articles of the difference that it has to pay over and above the Omaha rate in placing it in as good a position commercially as Missouri River points.

If an article comes direct from Chicago to Hastings on a rate proportioned to the Omaha rate it will cost 97½ cents cents per hundred pounds, but even if the roads should still keep up the present system of making rates, after House Roll 33 goes into effect, they can still charge $1.16 per hundred pounds from Chicago to Hastings, or one and one-half mills per hundred pounds for the last one hundred and fifty miles.

Q. Are you familiar with the local rates which are now charged by the railroads within the State of Nebraska, and the rates that have been so charged for the last one or two years?

A. Yes, sir, if I understand that.

Q. What I mean by that is whether you are familiar with the local rates that the roads in Nebraska have been charging for the last one or two years?

A. Yes, sir.

Q. Are you familiar with the local rates which are charged within the State of Iowa?

A. Yes, sir. 1023

Q. Can you state in a general way how much higher are the local rates which are charged by the roads within the State of Nebraska than are the local rates charged by the railroads within the State of Iowa, for the like kinds of shipments?

A. Well, my estimate would be from forty to fifty per cent. higher.

Q. How long have the rates in Nebraska been forty or fifty per cent. higher than within the State of Iowa?

A. I believe for about four or five years; anyhow, as long as I have been on the Board.

Q. Do you know of any good reason to justify any such, or so great a degree of difference as exists in the local freight rates in these two different states?

A. Not at the present time; no, sir, I do not.

Q. Have you compared the rates which are set down in the Newberry bill with the local rates which are charged in the State of Iowa, so as to be able to state how they compare, the one with the other?

A. Yes, sir.

Q. How do the rates set down in the Newberry bill compare with the local rates which are charged by these railways in the State of Iowa?

A. Higher.

Q. Which is higher?

A. The Nebraska House Roll 33 rates are higher than the Iowa rates.

Q. By that do you mean the Nebraska roads under the Newberry bill are allowed to charge more than the roads in Iowa are allowed to charge for like freight for like distances?

A. Yes, sir.

Q. Did you, yourself, prepare a table showing the comparison of rates under the Newberry bill with the rates allowed in the State of Iowa for like kinds of freight and over like distances?

A. Yes, sir.

Q. And if you know, is that the table that is attached to the answer in the suit of Higginson et al. vs. The Chicago, Burlington & Quincy, marked as Exhibit "D"?

A. Yes, sir.

Q. And from the attention you gave to the preparation of the table, what do say as to the correctness of the Exhibit "D", attached to that answer?

A. Why, it is correct.

Q. And were the exhibits which were attached to the answers in the other suits likewise prepared by you?

A. Yes, sir; they were all prepared at the same time, and carbon copies were made and attached to the different answers.

Q. By that do you mean the exhibits in the several cases are duplicates each of the other?

A. Yes, sir.

Q. By that I refer to the exhibit of comparison of rates of the Newberry bill and the Iowa rates?

A. Yes, sir.

Q. Did you read the testimony of the witness Utt touching the point that changes in the local rates would necessarily, directly or indirectly, affect the inter-state rates?

A. Yes, sir.

Q. What have you to say on that point?

A. Why, I cannot see why one rate should be affected by the other if any other system of making a through rate prevails than that inaugurated voluntarily by the railroad company, by making a through rate rate consist of two or more rates, what might be termed two local rates, for instance the rate to the Missouri River and then the local rate out; if any other system prevails than the local rate can have no bearing whatever on the through rate.

Q. Take as an illustration the through rate, or inter-state rate from Chicago to the Missouri River, if you know, state whether or not that is based on the sum of any two or more locals, or whether or not it is simply an arbitrary rate fixed to cover the distance from Chicago to the Missouri River?

A. It is a rate fixed from Chicago to the Missouri River, using the Missouri River as the dividing line.

Q. That does not answer all the question as to whether or no that through rate is in any way dependent upon any local rates existing from Chicago to the Missouri River?

A. No, sir.

Q. It is not so dependent?

A. It is not so dependent.

Q. Do you know whether or not the through rates for

shipments, say from Chicago to Denver in the State of Colorado are in any manner measured by or determined by adding the local rates between points in Nebraska to the local rates between Nebraska and Denver, Colorado, and the local rates anywhere between Chicago and the Missouri River, or in other words, is it an arbitrary rate from Chicago to Denver?

Objected to by Mr. Woolworth as immaterial.

A. I think the rate to Denver is made up in this way: that to the rate to the Missouri River they add the rate from the Missouri River clear through to Denver.

Q. Is the through rate from the Missouri River clear through to Denver made up from local rates from point to point in the State of Nebraska?

A. No, sir; it passes clear from the Missouri River to Denver.

Q. Then the change of local rates between two points in the State of Nebraska would not have any bearing on the through rate from the Missouri River to Denver, would it?

A. I do not see how it could.

Q. Take an inter-state rate, by way of illustration, from the Missouri River to a point within the State of Colorado and state whether such inter-state rate is in any manner based upon or affected by any established local rates for shipments within the State of Nebraska?

A. It is not necessarily so; they may continue the distance right along, but it is not affected in any way. The reduction of local rates in the state does not affect rates be-

yond the state line for the reason that the road can make the rates any figure it sees fit as soon as it crosses the line, so long as it keeps within the inter-state law. If a through rate from Nebraska to points beyond is affected by reduction of local rates in this state, then the through rate is a misnomer and in fact is made up of the two local rates, and if the local rates are reasonable then the through rate that is higher must be an unreasonable one and can have no force or effect, and is not a rate in law.

Q. What do you know as to whether or not the inter-state rates are higher or lower than the sum of the local rates between the same terminal points, that is, suppose the shipment is from Chicago to Denver, Colorado, is that inter-state rate higher or lower than the sum of the local rates from point to point through Illinois, Iowa, Nebraska and Colorado combined?

A. That through rate is lower.

Q. State what you know as to the general application of that principle of inter-state rates throughout the western country, as to whether or not, it is lower or higher than the sum of the local rates between the terminal points of shipment?

A. The through rate is lower.

Q. Can you state how much lower the through inter-state rate is than the sum of the various locals between the terminals of shipment?

A. My recollection is dim on that, Mr. Webster, I

figured that out once on grain, but I cannot remember the figures now.

Q. Can you give a general notion without being specific as to the ratio, an approximate idea of how much lower the inter-state rate would be than the sum of all the locals between the terminal points?

A. From Omaha to Chicago the rate on corn is 19 cents, and my recollection is the sum of the two local rates, that is the Illinois and the Iowa rate, would make it about 23 or 24 cents.

Q. Do you understand that that is about the ratio generally over the western country as representing how much lower the inter-state rate is than the sum of all the locals?

A. The grain is the lowest rate that we have in this state, and I suppose that would probably be nearer equalizing everyone than any other rate.

Q. What I want to get at is a general notion on all shipments of freight, about how much lower the inter-state rate is than the sum of the locals between the two terminals?

A. Well, I would hate to make an answer to that, because I am not informed on that.

Q. I will allow you then to take time to think of that and give me an answer later on before the taking of testimony is closed in this case?

A. Yes, sir.

Q. Then do you know in any way that the inter-state rate would or could be affected by a reduction of the local

rates, except in a possible instance where the inter-state rate is the equal of or made up from the adding together the sum of the various local rates between the two terminal points of the inter-state shipments?

A. I do not know of any. Under this system or manner of making rates, and only under this system or manner would the reduction of local rates in the state affect inter-state rates; but such effect is only caused by the manner or theory adopted by the railroads in making what they term "through" or "inter-state rates". The term "through" or "inter-state rates" just spoke of is, so far as it refers to this state, a misnomer, and is not true in its effect, and all articles that are shipped into this state from the east, are shipped in on a "through" or "inter-state" rate as far as the Missouri River, and from there to all points in the state west of Lincoln, the railroad companies recognizing and putting in force the local rates, adding it to the through rate to the Missouri River, making it cost the shipper the same as though he had first billed his goods to the Missouri River, and then re-shipped and re-billed his goods to their final destination. If the rate from outside to points inside the state were made in such a manner that no point in the state was either favored or discriminated against a reduction of local rates to any figure not less than its proportion of through or inter-state rates would not and could not in any way affect through or inter-state rates. As proof of that fact I will state that House Roll 33, if put in force, would not in the least affect the inter-state rate on any article that

was shipped into or out of the state on any other rate than that made up of the two rates just described, and further, that said law would not in any way affect Lincoln or Omaha, or any point between the two cities.

Q. I would ask you to state what other towns within the State of Nebraska, aside from Lincoln heretofore spoken of by you, have been favored by what you have called the differential rate in force by the railway companies entering this state?

A. All towns between Lincoln and the Missouri River.

Q. Name some of them?

A. There is Fremont, Wahoo, Ashland and a lot of other small towns; then at one time, and I am not certain but what Beatrice enjoys rates that are very near as good as Lincoln.

Q. You may state whether out of this system of differential rates in favor of Lincoln and the other towns mentioned by you enjoying the benefit of that differential rate these towns and the people living therein who have occasion to receive or make shipments of freight, derive thereby any advantage or profit over and above that enjoyed by the people of the remaining portion of the state, and particularly do I refer to the agricultural regions and the smaller towns of the state?

A. The people that live in Lincoln and those other towns, of course, receive their freight cheaper in proportion than any other portion of the state, except the towns mentioned. I wish to correct probably a misconception of my

former answer. These other towns do not enjoy all the privileges that Lincoln does, as they do not have the benefit of the reduction of the rate out that Lincoln does. I mean by the rate out, the rate out in the state.

Q. By that do you mean that the people of Lincoln enjoy a better rate in shipments which the people of Lincoln make to points west then are enjoyed by the people of the state living in other towns?

A. Yes, sir.

Q. Why is Lincoln so favored by the railroads in that respect?

A. I will state Fremont on some things has an equally low rate out. That is caused by placing Lincoln on the banks of the Missouri River as regards the shipment of freight.

Q. Do you mean by that that for the purposes of freight shipments that the railway companies have picked Lincoln up from the interior of the state and relocated it on the bank of the Missouri River, so far as charges are concerned by the railway companies?

A. Yes, sir.

Q. By that differential rate then, is all the territory of the State of Nebraska lying west of a line drawn north and south through Lincoln discriminated against by the railway companies and compelled to pay a higher rate for freight traffic?

A. They pay a higher rate than Lincoln does proportionately.

Q. Can you give me the distance in miles from the Missouri River west to that line which is run north and south through Lincoln?

A. Fifty-five miles.

Q. Does that territory lying east of that line include all the territory that is thus favored by the differential rate?

A. Yes, sir.

Q. How many miles is it from that imaginary line drawn north and south through Lincoln to the west line of the state?

A. On the Burlington road?

Q. I am not speaking of the railway mileage, I am speaking of the territorial distance?

A. There is a jog out there.

Q. I mean how far is it from Lincoln to the west line of the state?

A. It is 400 miles on the Union Pacific; on the south two tiers of counties it is 325 or 330.

Q. About what portion, geographically speaking, of the State of Nebraska, is discriminated against by the railway companies by reason of this differential rate?

A. Four-fifths of it, I expect.

Q. Thence that four-fifths of the State of Nebraska pays what percentage of higher rate under the established system than does that part of the territory lying east of Lincoln?

A. The only way I can answer that is by taking what would be the rate to about the average station in the state, for

instance, Hastings, and if Hastings had the same rate that Lincoln enjoys from Chicago, goods in the first class could be laid down at Hastings for 97½ cents a hundred, and the rate is now $1.26.

Q. Well, that don't get at what I want?

By Mr. Woolworth:

Q. Hastings would then have what rates?

A. 97½ cents.

Q. Whereas it is now how much?

A. $1.26.

By Mr. Webster:

Q. By that answer you are taking into account the rate from Chicago to the Missouri River, which is alike to all points; I am talking about the people living in Nebraska as to local rates which are charged in Nebraska, say from the Missouri River to Lincoln and beyond that. If I understand you the rate from the Missouri River to Lincoln is a a differential rate, and is much less than the local rate to other points in the state, and Lincoln gets the benefit of that?

A. Yes, sir.

Q. How much higher rate do the people have to pay for local shipments west of that line than are paid for these local shipments from the Missouri River to Lincoln?

A. Three and a half times as much

Q. Now, whereas, Mr. Woolworth seems to question the correctness of your former answer, allow me to ask you two or three specific questions?

By Mr. Woolworth. I object to that; I do not

object to his former answer; his former answer is true.

By Mr. Webster:

Q. If you have any correction you wish to make you may proceed to make any further correction or further explanation?

A. I mean this; that the people of the state west of Lincoln pay that proportion more than Lincoln does upon its proportion of freight west of the Missouri River that comes from Chicago to Lincoln.

Q. By that do you mean that for a haul of a distance of 55 miles west of Lincoln there is charged a rate which is about three and a half times as much as the rate which is charged on the haul between the Missouri River and Lincoln on such freight as you have spoken of in your last answer?

A. On the freight shipped from the east to Lincoln, yes, sir.

Q. Mr. Dilworth, did you read that portion of Mr. Utt's testimony wherein he gave by way of illustration an instance of the shipment of coal from Des Moines, in the State of Iowa, to Lincoln, Nebraska, as tending to show how inter-state rates would be affected by the reduction of the local rates?

A. Yes, sir; I read that part of it.

Q. You may state, as you understand it, how those rates on coal are established?

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A. They are made right straight through from the mines, right to their destination.

Q. Is that based upon, or is it without reference to the sum of the local rates between the various intermediate points?

A. It does not take into consideration the local rates at all, as I understand it.

Q. Now, do you know what is the fact with reference to the rates charged for the shipment of coal from, say Des Moines to Lincoln, as to whether or not other towns situated beyond Lincoln, such as Crete and Beatrice, being each within a reasonably short distance, can enjoy the benefit of the rate which is permitted by the railway companies between Des Moines and Lincoln?

A. No; they do not get as good rates; Crete does not, and I do not think Beatrice does, although she gets a little bit better rate than Crete does, by virtue of being down near Kansas City and St. Joe.

Q. By that do you mean the rates of coal fixed by the railway companies are in favor of Lincoln as against these other towns?

A. Yes, sir; it is favorable to Lincoln as against the other towns.

Q. Now, you may state whether or not that class of coal spoken of by the witness Utt is a coal that is used for running engines in manufacturing establishments?

A. Yes, sir; it is what he called steam coal, if I recollect it.

Q. Then if a manufacturer happens to live in Crete, or Beatrice, or other surrounding towns, can he enjoy the same benefit on coal rates that a manufacturer could who lived in Lincoln?

A. Not under the present system of rates.

Q. Then is there, or is there not, in that arbitrary coal rate a discrimination in favor of the Lincoln manufacturer as against the manufacturer who lives in Crete, or Beatrice, or other western town?

A. Yes, sir.

Q. Do you know about the percentage of the discrimination in favor of the Lincoln manufacturer as against the manufacturer in other towns?

A. No, sir; I do not.

Q. Do you know any reason why, if the Chicago & Burlington Road can carry that freight from Des Moines to Lincoln at its present existing rate, it could not at the same rate per mile continue to haul the freight to Crete or Beatrice?

A. I do not see anything in the way of it.

Q. And further let me ask you if Crete and Beatrice are on the line of the Chicago, Burlington & Quincy Railroad?

A. Yes, sir.

Q. Did you read the testimony of the witness Utt relating to the rates on sugar from San Francisco, or in which he gave that as an illustration?

A. Yes, sir; I remember he mentions sugar rates.

Q. Now you may state, Mr. Dilworth, what is the effect of the rates and the application of them to shipments of sugar from San Francisco eastward, but which is delivered to some point within the State of Nebraska, say, taking the town of McCook as an illustration first?

A. The rate from San Francisco to McCook on sugar is made up of the rate from San Francisco to the Missouri River and the local rate back to McCook.

Q. How far is McCook west of the Missouri River?

A. 250 miles, I think; it is about 300 miles.

Q. And the shipment of sugar eastward from San Francisco would stop there at McCook on its way east, would it not?

A. There has been some dispute as to whether they all stop. I have known instances where they stopped the car there on its way through.

Q. Then the consignee of that sugar would pay the freight as if it has traveled two or three hundred miles eastward and then two or three hundred miles back, making a total of six hundred miles?

A. Yes, sir.

Q. Over which that sugar never traveled?

A. Yes, sir.

Q. And over which 600 miles the railroad company was not out any money for operating expenses or wear and tear of road bed, or pay of employes in handling the car?

A. That would necessarily follow, yes, sir.

Q. Does that same principle with reference to the

rate to McCook apply to shipments of sugar from San Francisco to other towns throughout the State of Nebraska, at points west of Lincoln?

A. All towns in Nebraska, I am informed, it is true of.

Q. Then the million or more of people in the State of Nebraska that eat sugar that comes from San Francisco all pay a freightage over some distance of road over which the sugar never traveled?

A. Yes, sir; or traveled uselessly there and back again.

Q. Do you know of instances of other kinds of freight delivered to points within Nebraska where there exists the same sort of thing?

A. I think some California canned goods do, but what particular fruit it is, I cannot recollect.

Q. Do you know of any good reason why the consumer in the State of Nebraska should pay tribute to the railway companies for hauling this sugar over so many miles of its road over which such sugar is never hauled?

Objected to by Mr. Woolworth as immaterial.

A. No, sir; I do not.

Q. Have you read over the testimony of the witness J. E. House as to the cost of building or duplicating railroads within the State of Nebraska?

A. Yes, sir.

Q. Do you remember the amount that he fixed as about the average cost per mile?

A. Of building and equipment?

Q. Yes, sir.

A. I think it ran between $18,000 and $20,000.

Q. I will ask you to state if you have made a computation of the number of miles of the main line of the Burlington & Missouri Railway, The Union Pacific Railway, the Fremont, Elkhorn & Missouri Valley Railroad and the Chicago, St. Paul, Minneapolis & Omaha Railroad, within the State of Nebraska, and also of the earnings per mile of said roads, and thepercentage of profit to the roads, based upon a valuation of $18,000 and $20,000 per mile, respectively?

A. Yes, sir; for the years 1890, 1891 and 1892.

Q. Will you produce such table to be attached to your testimony as Defendant's Exhibit "22"?

A. Yes, sir; that is the table that contains the net earnings per mile.

Q. By that you have included the net earnings, including both freight and passenger?

A. Yes, sir.

Defendant's Exhibit "22", referred to above is attached to defendants' testimony, and the following is a copy of said exhibit:

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Defendant's Exhibit "22" (Copy).

Per cent. earned by the following named railroads in the State of Nebraska for the years 1890, 1891 and 1892, on a railroad valuation of $20,000 per mile, and on a valuation of $18,000 per mile.

Main Lines.	Mileage in State.	Net earnings per mile.	Per cent. earned on $20,000 per mile valuation.	Per cent. earned on $18,000 per mile valuation.
1890.				
B. & M.....	191.61	$6,322.71	31 3-5 %	35 1-10%
U. P. Ry.....	467.48	3,970.24	19 4-5 "	22 "
F., E. & M. V....	983.91	1,927.51	9 3-5 "	10 1-2 "
C., St. P., M. & O.	240.18	433.67	2 3-5 "	2 9-10"
1891.				
B. & M.....	191.61	5,357.01	26 7-10%	29 7-10%
U. P. Ry.....	467.48	4,131.32	20 3-5 "	22 9-10"
F., E. & M. V....	985.19	991.35	4 9-10"	5 1-2 "
C., St. P., M. & O.	263.95	689.87	3 "	3 4-5 "
1892.				
B. & M.....	191.61	7,553.45	37 7-10%	41 9-10%
U. P. Ry.....	467.48	4,384.41	26 9-10"	29 9-10"
F., E. & M. V....	985.19	1,044.23	5 1-5 "	5 4-5 "
C., St. P., M. & O.	263.95	971.95	4 4-5 "	5 3-10"

CROSS-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Dilworth, what companies form the association which you have spoken of as having the western classification?

A. Why, all the railroad companies doing business west of the Missouri River and Mississipi River, with the

exception possibly of one or two small companies in the State of California that I understand have a different classification from the western classification. I presume there is forty or fifty different railroad lines.

Q. Do you mean railroad companies whose lines run west of the Mississippi River or west of Chicago?

A. Including lines that come west of Chicago also.

Q. This association is composed of companies whose lines run from Chicago west, do they?

A. Yes, sir.

Q. And north and south?

A. When they get south of the Ohio River I understand that the southern classification comes in.

Q. All of the companies whose lines run north, west and south from Chicago and not running south beyond the Ohio River are in this association?

A. Yes, sir.

Q. Well, who forms this committee that you spoke of?

A. As I understand it there is a representative from each of the railroads on this committee; they meet, I think, annually, though at long intervals; they have probably a sub-committee or delegate the powers to a chairman to make the alterations as necessity requires.

Q. You say as you understand it?

A. Yes, sir.

Q. What is your information on the subject?

A. My information on the subject is from what I can ascertain from the classifications themselves, and incident-

ally talking with men whom I presume I thought knew about it. I don't know as I ever met a member of the committee, and perhaps I have, but I do not remember.

Q. Then I understand you to say that all these companies have the same classification without regard to the association?

A. Yes, sir; because their names appear upon the classification sheet, the names of these roads are printed thereon.

Q. How do you know these classification sheets are official?

A. They are filed in my office as part of the system of roads.

Q. Who are they filed by?

A. They are sent by Mr. Ripley, from Chicago direct.

Q. Accompanied by any communication from him?

A. No, sir; not since I have been in the office; they were coming right along when I took charge and are still coming the same way.

Q. That is the extent of your knowledge of the classification?

A. Yes, sir.

Q. Do you know Mr. Ripley personally?

A. No, sir.

Q. What is his full name?

A. J. T. Ripley, I believe, is his name.

Q. Is he connected with any railroad?

A. I think it is pretty near his entire and exclusive business to attend to this classification matter.

Q. He is not an officer of any railroad company?

A. Not to my knowledge, although he may be.

Q. Do you know what his official connection with the association is?

A. Chairman.

Q. Chairman of the association?

A. His name is printed on there, J. T. Ripley, Chairman.

Q. You do not know whether he is chairman of the committee or chairman of the association?

A. No, sir; I do not know that.

Q. Is there any other officer of the association whose name appears on these papers to give them credit?

A. I do not recollect that there is, unless in giving the names of the different railroads belonging to the assoication they give their general passenger agent's name, too, but I do not believe they do.

Q. There is no autograph on the papers is there?

A. No, sir.

Q. Now, Mr. Dilworth, you say that changes are made every two or three times a week, what is the necessity for making changes as often as that?

A. Well, there are new things come up to be shipped; there are new things manufactured not on the classification, and things probably that there is a call for shipment that there never was a call for before to ship, and they add those

to the classification, and sometimes after they have tried shipping a certain article in one class they may come to the conclusion that that is either too high or too low a class and change it around that way.

Q. The changes are principally in transferring an article from one class to another, are they not?

A. I would rather think the additions to the classification were the most.

Q. Do you mean by making new classes?

A. No; putting on articles that were not on before.

Q. Then I understand that once in six months these changes that have been made are consolidated and published in a book?

A. They get out what they call a book and give it a new number, and that book embodies all the old classifications with the amendments and additions and subtractions that have been made during the six months.

Q. These changes are in the course of six months very numerous, are they not?

A. Yes, sir; very numerous, sometimes in one letter I will get a half dozen sheets with the changes on them or, additions?

Q. The classification that appears in House Roll 33 was the Iowa classification, was it not?

A. It was a classification I think taken from an Iowa bill, either that, or taken from a western classification that has since been superseded by a new classification, just exactly where it came from, that is, it's immediate origin, I

could not ascertain, but it came, undoubtedly, from a western classification at first.

Q. You mean to say it came from one of the classifications made from this association?

A. Yes, sir.

Q. Now, I want to call your attention particularly to whether that classification as it appears in the printed bill was not the classification which obtains or did formerly obtain in Iowa, either under the authority of the Board of Railroad Commissioners of that state, or one that had been approved by that board?

A. It probably was, from the testimony that is in this case, that furnishes the only light that I have in regard to where the classification came from to go into this bill, but it undoubtedly was back of the Iowa, if it was an Iowa classification, back of that, it undoubtedly came from a western classification.

Q. That western classification it came from was an old classification issued many, many years ago, was it not?

A. I do not know how long ago; it has not been since I have been in office.

Q. Do I understand you to say that the classification in the printed bill in House Roll 33 was not taken from a classification issued by the Western Association since you have been in office?

A. Not that I can ascertain.

Q. It must have been taken from some classification that antedated your accession to office?

A. Yes, sir; I rather think so.

Q. Are not you pretty certain about that?

A. Yes, sir; I am pretty certain, because when the bill first came out I tried to ascertain where they got their classification from.

Q. What success did you have?

A. I could not find any classifications in my office that it came from.

Q. How far back did your files go on these classifications?

A. January, 1891, I think I have got.

Q. Did not they go back of that time?

A. I could not find any; I don't think the secretaries that were in office before me preserved the copies; they destroyed them as fast as a new one came out.

Q. You mean as fast as the semi-annual issues came out?

A. Yes, sir.

Q. Did you ever compare this classification with the classification attached to the Newberry bill that was introduced into the preceding Legislature?

A. I have compared it with nearly everything I can think of. Do you mean the one that Mr. Newberry introduced two years before?

Q. Yes, sir.

A. I think I compared it, not thoroughly, but some, that is the classification.

Q. As far as you examined it, how did the classification agree?

A. I think it is the same classification, that is my recollection of it.

Q. That was the classification introduced by Newberry into the Legislature of three years ago?

A. Of 1891; yes, sir.

Q. What was the change that was made in the grain rates in the inter-state grain rates on the 10th of June, 1893?

A. They raised the rate on wheat and corn from points in the state to Chicago.

Q. How much?

A. It varied from different stations and from different localities. In the eastern part of the state it was one cent, probably, on corn, and from that up to two or three cents, and wheat, from one cent up to four.

Q. That is to say at eastern points it was raised one cent and at extreme western points four cents?

A. Yes, sir; graduated up to four cents higher than it was before.

Q. What was the rate before that time?

A. The highest corn rate I recollect we had in the state was 25 cents to Chicago, and the highest wheat rate was 30 cents, with the possible exception in the extreme northwest part of the state they had the 32 cent rate, but that did not cut much figure because there was not much wheat raised.

Q. Where was this 25 cent corn rate?

A. It commenced at about Holdrege, I think, and took in the western part of the state.

Q. Do I understand it that east of Holdrege there was no increase?

A. Oh, yes; down here at Omaha the rate was 19, and ran up to 25 as far as Holdrege, and Holdrege it stood stationary at 25, that is before the raise.

Q. That is to say the rate was 19 cents at Omaha and as you went west it gradually increased to 25, according to distance?

A. Yes, sir.

Q. It was an increase based on distance, was it?

A. Well, I don't know about that, because they seemed to have—I don't know—strips of country where the grain from them would be shipped out at the same rate; for instance, it would be up to 21 cents; there would be a strip of country 25 to 30 miles that would enjoy that 20 cent rate, and the next 25 to 30 miles would get the 21 cent rate. Hastings would have a 23 cent rate on grain, if I remember right, and at Minden I think it was 24.

Q. How far west of Hastings is Minden?

A. About 35 miles.

Q. That was the rate prior to the 10th of June, was it?

A. Yes, sir.

Q. The rate then at Omaha was raised from 19 cents to what?

A. I am not right positive that they raised the rate at the City of Omaha at all. They may not have raised it at

all until they got out eight or ten miles, but the first raise was one cent.

Q. Let us take Lincoln, the rate from Lincoln to Hastings before the 10th of June was how much?

A. From Lincoln to Hastings?

Q. No, sir; I mean from Lincoln to Chicago. I am talking about Chicago as the destination?

A. I believe that they had a 20 cent rate.

Q. You mean before the increase or after the increase?

A. Before the increase.

Q. Now, what was the rate increased at Lincoln?

A. I think to 21 cents.

Q. It was increased one cent at Lincoln?

A. Yes, sir; possibly only half a cent.

Q. When were the rates that obtained prior to the 10th of June, 1893, established by the companies?

A. Well, there has been occasional changes in the rate, but they have been about the same for five or six years, I think, possibly run back as far as 1887.

Q. Then, between 1887 and 1893 there had been no change, had there?

A. O, there had been changes when the demand was such that for a short time there would be a change; they had an emergency corn rate here at one time; the roads made quite a reduction in the corn rate; it only held for a short time.

Q. When was that?

A. I believe that was in the winter or spring of 1891, after we had raised the crop.

Q. Was that change by way of increase or decrease?

A. It was a decrease.

Q. What did the railroad companies make that decrease for?

A. Why, there was such a demand for lower rates to ship the corn from the state.

Q. Demand from whom?

A. From everybody; from the farmers and state officers and everybody else.

Q. Why was such a demand made at just that time?

A. Because we had an unusually large amount of corn on hand, and the people demanded they be allowed to get it off to market, and corn was a very low price.

Q. Was not that the real trouble that the price of corn was very low and the rates had to be very low in order to get it to market?

A. That probably was the primary cause for the demand for the reduction.

Q. And the companies yielded to the demand, did they?

A. They yielded partly; they did not yield as much as some of the companies wanted to. I understood some of the railroad officials wanted to cut the corn rate right square in two in the middle.

Q. Before this reduction in 1891 what had the rate been on corn from Lincoln?

A. I think about the same as I have stated before, about 20 cents a hundred.

Q. It was reduced how much?

A. I do not remember what the reduction was; it was reduced quite a little; that was before I came into the office, I think.

Q. How long did that reduction continue?

A. I could not state that, it would simply be a guess if I did. It was perhaps 30 or 40 or may be 50 days.

Q. Is it not a fact that under the depressed condition of the agricultural interests here a reduction was made in 1890 or 1891 which continued until the 10th day of June, 1893?

A. That is possible; I would not say it did not, because I did not remember that.

Q. Is it not true that the rates on grain from Nebraska to Chicago were greatly reduced at the time mentioned, 1890 or 1891, when the agricultural interests were depressed, and that the rates fixed by that reduction continued until the 10th of June, 1893?

A. That may be the case; I would not say it was not, at all, I do not know.

Q. Now, almost all the grain that is raised or was raised in Nebraska between 1890 and the middle of 1893 was shipped out of the state, was it not?

A. Oh, I should say yes to that; it nearly all goes out anyhow.

Q. The shipments of grain from one point to another in this state are very inconsiderable, are they not?

A. Very small.

Q. Will you tell me when the change was made which you speak of on rates on live stock?

A. I cannot remember just the time, but I think a couple of years ago, possibly three years ago.

Q. You refer to shipments from points in this state to Chicago, do you?

A. Yes, sir; it was about the time South Omaha became quite a market, or building up as a market, and the stockmen complained that the rates had been changed so that they could not afford to go by South Omaha; they could sell at better advantage at South Omaha than they could at Chicago.

Q. That is the local rates in this state from points in the interior to South Omaha were put down so low that it was more advantageous to ship and dispose of the stock there than it was to send it through to Chicago, is that right?

A. It may have been partly on account of that and partly on account of the raise in rates, but I think more on account of the lowering of the rate to South Omaha.

Q. Then the change was by the reduction of the local rate, was it?

A. Most entirely, I think, as I recollect it.

Q. So that the local shipment had the advantage of the through shipment?

A. Well, that is just as you take it; the shipper of

stock claimed that he would rather stop at South Omaha, taking all things into consideration, than go on through to Chicago.

Q. It was the matter of rates mainly that induced him to take that view of the matter, was it not?

A. It must have been; yes, sir.

Q. I understood you to say it was caused by reducing the local rate without reducing the through rate?

A. I think that possibly the through rate might have been raised a little bit, but I would not say as to that; my memory is very dim as to that, but I believe it was brought about primarily by the reduction of the local rate on live stock in, and by a better rate on packing house products out.

Q. That is, by reducing the rate on the stock on the hoof into South Omaha, and also reducing the rate on the dressed product from South Omaha outside?

A. Outside; yes, sir.

Q. What was the change that you speak of as made this last winter on lumber?

A. It was a change, I recollect, more particularly, on lumber from Lincoln out, if I recollect it.

Q. From Lincoln which way?

A. West on the Burlington; my recollection is they raised two cents a hundred out as far as Grant, in Perkins County.

Q. Was it raised on any other line but the Burlington?

A. Not that I noticed.

Q. Was it on all lines of the Burlington or only on the main line?

A. I believe it was made to the South Platte country, although it may have been in some territory north of the Platte, but I do not recollect of that; I did not go through and examine the rate sheet all the way through. My attention was called to the fact by a man that lives in Chase County telling me of it, and when I went back to the office I examined it and saw he was correct as to the raise at his place.

Q. How far was his place from Lincoln?

A. It must have been between 250 and 300 miles.

Q. How much was the increase?

A. I think it was two cents a hundred.

Q. Is Minden reached from Lincoln by any other road?

A. Minden?

Q. That is the place, Minden?

A. No, sir; this place is at Grant, in Perkins County.

Q. You spoke of a man in Chase County?

A. His shipping point was at Grant.

Q. Then the man in Chase County did not ship from a point in Chase County, but shipped from Grant in Perkins County?

A. Yes, sir.

Q. Was there any other change last winter than this one on lumber that you remember of?

A. I do not remember; we get lumber tariff sheets quite frequently, but I have not made a comparison to see.

Q. Your attention has not been called to any other changes than that on lumber?

A. No, sir; if there is a reduction hardly anybody speaks about it; if there is a raise there is generally a complaint from somebody, somebody says something about it.

Q. You cannot tell whether the inter-state rate on lumber from the Mississippi River on other lines than the Burlington was increased or decreased, can you, last winter?

A. They file their lumber tariffs in our office, the individual roads do, and there is a committee called the Trans-Missouri Freight Association—I think that is the name—that sends out rate sheets that applies to all the roads to different points in Nebraska on different things.

Q. Did you notice any change in the inter-state rates on these between the Mississippi River and interior points west of Lincoln?

A. No, sir; I have not noticed any changes on them.

Q. You cannot say whether there were any changes or not?

A. Well, no, I cannot; if there has been a change, so as to have raised the rates, I think we would have heard of it, undoubtedly.

Q. That is all you go on, the probability of your hearing about it, is it not?

A. Yes, sir; you see there are a great many rate sheets filed in the office, and when a new rate sheet comes in, if we want to see if there is any difference between it

and the old one, we would have to make a comparison of it, and it would keep one man busy comparing all the time.

Q. You do not do that personally, do you?

A. Only when I have some particular thing to look up.

Q. You did not have occasion to look this up particularly, did you?

A. I looked up the lumber business, to see what caused the raise out at that country out there, and I could not find any change from the east to Lincoln, and why the change was made from Lincoln out there I never ascertained.

Q. Did you look to see if the change had been made from Mississippi River points to points west of Lincoln?

A. I think I looked to see if there had been any new rate sheets filed that contained the lumber rates from points outside of the state to points inside of the state, but I could not find anything that showed me that there was any change made recently anywhere near about the time these new rates were made.

Q. Did you look at any other sheets than those of the Burlington Company?

A. Yes, sir; I looked at all the sheets that had the word lumber on; I did not confine myself to the Burlington at all.

Q. Did you look to see whether the Missouri Pacific had made any change on hard pine from the south?

A. Yes, sir; I looked to see whether there was any

change on any lumber or not, and I could not ascertain any; I could not find that there had been.

Q. You would not say there had not, would you?

A. That would be saying what somebody else done, that I do not know, except as he tells me; of course it is his duty to file the rate sheets there.

Q. Is it the duty of these companies to file rate sheets on inter-state business with your Board?

A. Well, that possibly might not be their duty, but they do almost altogether; I think altogether?

Q. You think they do it altogether, simply because they frequently do it; is not that it?

A. That may be it.

Q. They may make changes on inter-state business without filing them with you at all, is not that so?

A. Yes, I expect that probably would be true.

Q. Lumber from the south coming, for instance, from Arkansas, and that region, is generally hard pine, is it not?

A. Yes, sir; called the yellow pine.

Q. And it is in competition with the soft pine from the northern country, is it not?

A. Yes, sir; not only in quality, but also in price.

Q. And it has greatly divided, has it not, the business in lumber?

A. Yellow pine is used a great deal more now than it was a few years ago.

Q. It is in active competition with northern pine, is it not?

A. On certain classes of building it is in active competition; other parts of building I understand it is not as well fitted for as the northern pine, and there is some it is used for more than the northern pine.

Q. That comes into Lincoln almost altogether over the Missouri Pacific, does it not?

A. That is termed the Yellow Pine Road.

Q. All that kind of lumber comes over that road, does it not?

A. You might say that is true, but I suppose there is occasionally a car comes over some other line.

Q. That shipment over other lines is very infrequent?

A. It does not compare, of course, with the road that runs direct into that country.

Q. Mr. Dilworth, what is the local rate from Omaha to Lincoln on the Burlington on first class now?

A. I believe it is nineteen cents; it may be only fourteen; it is fourteen or nineteen, according to my recollection.

Q. How long has that figure held?

A. Since November 1, 1887, I think.

Q. What is it from Omaha to Fremont?

A. Well, it would be a cent or two cents less than it would to Lincoln. It is the same all over the state, the local rate—what we term the local rate—is the same all over the state; it is somuch per mile, anywhere you may go in the state it is so much per mile.

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Q. Do you mean that is so in every instance, or that is the general rule?

Q. That is what we term the local rate.

Q. Well, supposing I wanted to ship half a carload to we will say, Papillion, in Sarpy County, a distance of about twelve miles, what would be my rate on first class?

A. Well, you are getting down into figures now that I cannot recollect very well. My recollection would be it would be something like 12 or 13 cents.

Q. And to Lincoln you say it would be 19 cents?

A. Something like that; yes, sir.

Q. So that as between Papillion and Lincoln it cannot be on a mileage basis, Mr. Dilworth; understand me, I want to find out whether that is a general principle or whether it obtains in every particular case?

A. Now, then, I will explain what is the meaning of local rates. That is, the first five miles of a shipment pays so much, the second five miles pays so much, wherever you ship it from, and so on as far as you ship in the state, it makes no difference where you start or where you end in the state, the first five miles pays so much, that is fixed; but it is not so much per ton per mile all the way through because the first five miles pays more per ton per mile than the second five miles and more than any other five miles probably in the whole shipment.

Q. That is what I want to get at; do the shipments decrease with the length of the distance?

A. Yes, sir; they place probably the first 35 or 40

miles high on account of giving the railroads something for terminal charges, something for loading, terminal facilities.

Q. I am not inquiring for the reason of the difference, but I am trying to get at the fact of there being a difference?

A. Yes, sir; there is a difference; I do not know, I would not say there was not, but I do not believe there is any two distances of five miles in a five hundred mile haul in the state that has the same rate per ton per mile.

Q. All the towns and communities throughout the state have then the same relative rates for local shipments?

A. Yes, sir; for local shipments.

Q. Now, you say the rate from Chicago to Lincoln is made up by adding the rate from Chicago to the river, and 5 cents besides, is that right?

A. Yes, sir; on first class.

Q. What is it to Fremont?

A. The same.

Q. What is it to West Point?

A. Well, it is more, but how much, I don't know.

Q. How much to Beatrice?

A. Eighty-seven cents, I think, from Chicago to Beatrice.

Q. And how much is it to Lincoln?

A. Eighty cents.

Q. What is the distance from Lincoln to Beatrice?

A. Forty miles.

Q. What is it to Crete?

A. I believe Crete is higher than Beatrice, but I would

not say; you are getting so many figures that I would be afraid to make a statement for fear I would be wrong in the matter.

Q. I am trying to find out how much you know about this matter, and how exact you can be. Do you mean to say the rate on the Burlington & Missouri Railroad from Chicago to Crete is less than it is from Chicago to Beatrice?

A. No, sir; I think it is more.

Q. You think it is more?

A. I would not say; it is either the same or it is more, it is not less.

Q. Crete is on the line from Lincoln to Beatrice, is it not?

A. Yes, sir; it is on the Burlington line around that way.

Q. What is the distance from Lincoln to Crete?

A. Twenty miles.

Q. And from Crete to Beatrice?

A. It is either 30 or 40 miles from there by the Union Pacific road straight down to Beatrice; it is only 40 miles from Lincoln.

Q. Is it not true, Mr. Dilworth, that the companies have drawn on imaginary line north and south through Lincoln, giving all the towns on that line and east of it the differential which you have spoken of as given to Lincoln?

A. As far north as Fremont.

Q. Don't it go north of Fremont?

A. I do not think that it does.

Q. You think that rule does not obtain on the Elkhorn road?

A. Not further west than Fremont.

Q. I am not talking about further west; I am talking about north?

A. The Fremont & Elkhorn runs northwest of there, about as much west as north.

Q. The imaginary line through Lincoln runs through Fremont?

A. Yes, sir.

Q. And the same differential is given to Fremont as is given to Lincoln?

A. Yes, sir; on incoming freight.

Q. And does not that line extend north of Fremont?

A. No, sir; I think not.

Q. You speak of that pretty positively?

A. Yes, sir; and I am confirmed in that by the fact that that rate to Norfolk is as I recollect it, over one dollar.

Q. By what line?

A. By way of Sioux City.

Q. Supposing you take it by way of the Northwestern, crossing the Missouri River at Missouri Valley, or I believe they call it California Junction, don't they, it is $1.00, is it not?

A. I think it is more than a dollar; it is considerably higher than that, but I place it at a dollar to be on the safe side.

Q. How far is it from the Missouri River to Norfolk?

A. You mean by the railroad, do you?

Q. Yes, sir.

A. Seventy-five miles, I think they call it.

Q. I mean by the Sioux City & Pacific?

A. The Sioux City & Pacific, that is from Missouri Valley.

Q. It runs from Missouri Valley; yes, sir?

A. Down to Fremont and up that way.

Q. How are the rates from Chicago to West Point as compared with rates to Fremont?

A. Well, they are higher.

Q. How much higher?

A. I do not know, but not relatively higher there, as they would be that much further west on some other line of road, for the reason that the rate from Sioux City to Norfolk is the same as from Omaha to Sioux City, and consequently they have got to graduate their rate easier up as far as Norfolk than they would if they were going directly west.

Q. Then the rate from Chicago to Norfolk, I understand you to say, is less per mile than it is to Fremont?

A. Than it is to Sioux City, that is what I said.

Q. I am not talking about Sioux City; I am talking about Fremont?

A. No, the rate from here to Fremont is less.

Q. I am talking about Chicago to Fremont and Chicago to Norfolk?

A. In order to get at that I have to ascertain what the

exact rate to Norfolk is, since you have talked about this and talked about the Sioux City matter.

Q. I don't ask anything about the Sioux City rate?

A. I was getting at where I have possibly made a mistake in the rate from Norfolk to Chicago; it may be only 97 cents on first class; my recollection is it is 22 cents from Omaha to Norfolk.

Q. How far is it from Omaha to Norfolk?

A. My recollection is 125 miles.

Q. From Chicago to Norfolk, you say it is 97 cents?

A. Ninety-seven cents, I believe.

Q. How confident are you about that?

A. Well, it has been two years since I have investigated that subject.

Q. Well, then, as between Norfolk and Fremont, you can not speak very definitely about the increase from Chicago, can you?

A. No, sir; I cannot give the rates from memory.

Q. And the same is true about West Point?

A. All those stations up in there.

Q. So that Fremont has not very much advantage of those points up there to or from Chicago, has it?

A. It has the advantage of a lower rate.

Q. Well, how much lower, the distance is greater, but how much lower?

A. Well, the amount of the local distance from Fremont or Norfolk to the station that you designated, either

West Point or the other places, because from Fremont they add the local rates.

Q. Do they add the local rates which you have spoken of as running from five to ten to fifteen miles, and so on?

A. Yes, that is the local rates I mean.

Q. Then do you mean to say the rate from Chicago to Norfolk is the rate to Fremont with the local added?

A. Well, there comes in an exception, on account of the Sioux City inlet. The rate to Norfolk is the rate from Chicago to Sioux City, which is 75 cents, and the local rate out for 75 miles whichever way you may go; there is three ways you may go to Norfolk, there is three roads running there, and whichever road you take the local rate is the the same. You can go around by Columbus and the Union Pacific road if you want to, and the rate from Chicago that way is just the same to Norfolk.

Q. It is how much from Chicago to Norfolk, first class, can you give it in figures?

A. No, sir; I cannot remember; I have tried once or twice, and the more I think about it I cannot remember exactly what the figures are.

Q. Then if you go the roundabout way from Fremont to Columbus and thence up to Norfolk you pay a local mileage rate, do you, is that so?

A. From Chicago around by Fremont?

Q. Yes, sir?

A. No, sir; you do not pay the full mileage rate.

Q. Well, you have got to pay the rate to Fremont from Chicago, have you not?

A. Yes, sir; that is 80 cents.

Q. Then you don't pay the full mileage rate from Fremont to Columbus and thence up to Norfolk, do you?

A. I should think not, but it is barely possible they may; there may not be such a difference in there to cause a lower scale by way of Fremont than it would be right direct through.

Q. Suppose you take the Sioux City & Pacific from Fremont up, do you pay the local rate there per mile?

A. Well, I can't tell you until I could get the figures, because that short cut-off from Sioux City over there to Norfolk might interfere with their adding the full local rate, and how much that interference, and whether it does interfere, I am not now able to say.

Q. So that the rule that you stated may not obtain up there?

A. Possibly may not obtain up there.

Q. What is the object of putting a differential on for Lincoln instead of carrying a local rate through?

A. Well, it is for the purpose—all that you can judge is by the effect that it has had, that is in building up the City of Lincoln.

Q. Now, you do not mean to say that the rates from Omaha to Lincoln are only five cents a hundred on first class, do you?

A. No, sir.

Q. All you mean to say is, that the rate from Chicago to Lincoln on a through shipment, is the rate to the river, with the five cents added?

A. On first-class freight; yes, sir.

Q. And that is confined entirely to inter-state or through shipments from Chicago to Lincoln, is it not?

A. Yes, sir.

Q. And if a shipment were made from Chicago to Omaha, and then a reshipment made from Omaha to Lincoln, it would pay the rate from Chicago to Omaha, and the local of nineteen cents from Omaha to Lincoln; is not that so?

A. Yes, sir.

Q. And that is true with reference to all of the towns that are on this imaginary line that runs through Lincoln?

A. Yes, sir; they are all in the same boat as far as that is concerned, except Lincoln has a little less rate out.

Q. Yes sir; and to the towns on that imaginary line that runs through Lincoln the differential is added to the river rate only on through shipments from Chicago?

A. Yes, sir; that is all.

Q. And the business through the state is not affected by it at all?

A. No, sir, not that I can see; I don't see how the local rate is affected by that.

Q. I asked you, the other day, to give me some data with reference to taxes, interest, etc.; have you made that up?

A. I have not got that fully completed as I would like to have it go in.

Q. How soon can you get it?

A. I think within a day or two.

Adjourned until 10 o'clock to-morrow morning, April 13, 1894.

OMAHA, Friday, April 13, 1894, 10 A. M.

The further taking of testimony in the above entitled cause is resumed, pursuant to adjournment, at the time and place mentioned above, as follows:

Continuation of cross-examination of the witness, Mr. Dilworth, by Mr. Woolworth.

Q. Mr. Dilworth, how did it come about that the rates to Lincoln were established by taking the Missouri River rates and adding the differential of five cents on first class?

A. Why that was brought about, as I understand it, by the action of the board of trade asking the railroad companies to make that rate for Lincoln's benefit, and my recollection is that they even went so far as to bring suit before the Inter-state Commerce Commission, asking for more such rate, whether it was that particular rate or not I do not know.

Q. When was that?

A. In 1887 or 1888, I think.

Q. What was the question before the Inter-state Commerce Commission?

A. Well, sir; my recollection on that is so dim that I cannot answer that.

Q. Was there a hearing before the Inter-state Commerce Commission on the subject?

A. I believe there was; yes, sir.

Q. And that resulted, did it not, in the establishment of the rates as they now exist, or substantially as they now exist?

A. I think not, Mr. Woolworth. I think the board of trade of Lincoln got defeated in their action and the railroad companies voluntarily put it in themselves, afterwards, that is my recollection.

Q. Was that while you were on the Board of Transportation?

A. No, sir; that was before I went on the Board.

Q. Well, what did the Inter-state Commerce Commission do; did it take cognizance of the adjustment made by the railroads with the Lincoln board of trade?

A. I cannot answer that Mr. Woolworth; I do not know whether they did or whether they did not.

Q. Is it not a fact that pending the controversy the railroads and the Lincoln board of trade came to an agreement and it was submitted to the Commission and approved by the Commission?

A. If the records show that—I don't recollect of having read it.

Q. I am not speaking about the records, I want to know what the facts are?

A. All the facts I get is from reading the report of the Commission in that particular.

Q. Then you do not speak on that subject from any personal knowledge?

A. No, sir; it is just what I learned by reading the proceedings and from talking with men who have been interested in the matter.

Q. But really you have no personal knowledge on this matter at all?

A. Not of my own personal knowledge; it all took place before I was on the Board.

Q. I understand you to say that the through rate from Chicago to Lincoln is made by adding the rate from Chicago to the river, and the differential of five cents on first class, and so on, on the other classes, to make the Lincoln rate?

A. I used the term Chicago, because I recollected what the rate was from Chicago to the Missouri River, but as I understand it, it applies on all freight coming from the east, made that way.

Q. Now, did I understand you to say that the rates out of Lincoln to the west are less than the local rates?

A. That is my understanding; yes, sir.

Q. Now, let us pass from Lincoln to a town in the west, say, for instance, Hastings; won't you tell us how the through rate is made from Chicago to Hastings on a through shipment?

A. Well, sir, on first class, as I understand it, they charge from Chicago, the rate is made up of the rate from

Chicago to the Missouri River, 75 cents, and from there out they charge the local rate, which I think is 51 cents, making $1.26 to Hastings.

Q. Do you mean to say that separate charges are made from Chicago to the river or that the through rate is made by an aggregation of the other rates?

A. The through rate is made up of the aggregation of the other two rates, the rate through is $1.26, and the rate from Chicago to the Missouri River is 75 cents, but they do not make two way bills, they do not make two separate charges or amounts for the shipments as I understand, but they bill clear through at $1.26.

Q. Now, don't they ascertain the rate from Chicago to Hastings on through shipment by adding the rate from Chicago to the river, the differential from the river to Lincoln, and the business, not the local, but the business rate, or the decreased rate from Lincoln to Hastings?

A. That is possible; they may do that.

Q. Is it not a fact that they do do that, Mr. Dilworth?

A. Well, I do not know, I won't say whether they did or did not, but it all amounts to the same thing as I understand it.

Q. Well, now, if they make the rates in that way, Hastings gets the benefit of the differential from the river to Lincoln, does it not?

A. The rate that way would be 75 cents to the river, five cents from the river to Lincoln and 46 cents from Lincoln to Hastings, making a total of $1.26; now that mathe-

matical problem can be figured out to see whether they do or do not get the benefit of that rate or not.

Q. If the rate from Chicago to Hastings is made up by the railroad company on that basis, Hastings does get the benefit of the differential, does it not, I mean that is the way the railroad company reaches what shall be a through rate, is it not so?

A. They would get the benefit of the out rate that Lincoln has, that would be the five cents less.

Q. Of course they get the benefit of that reduction, now don't they get the benefit of the transportation from the river to Lincoln at five cents on first class?

A. Well, on that way of figuring that would give them the benefit of that five cents.

Q. Assuming that the railroad company fixes the rate from Chicago to Hastings by adding those three items, then Hastings gets the benefit of the differential between the river and Lincoln, don't it?

A. I think so, I do not see any other way of figuring it.

Q. What is true of Hastings is true of all other towns west of the lines running through Lincoln, is it not?

A. That same rule would apply to all shipments out of Lincoln.

Q. It would apply to all shipments to towns west of Lincoln from Chicago, would it not?

A. Yes, sir; that same rule would apply.

Q. Now, won't you tell me where is the discrimina-

tion in favor of Lincoln against those western towns if those western towns get the benefit of the discrimination in favor of Lincoln?

A. The discrimination comes in this way, that Lincoln, if it wants to ship out to any of these surrounding towns has the benefit of the five cents lower on first class than the other towns enjoy; it has an out rate of five cents lower than the local rate.

Q. But I am not talking about the local rate, I am talking about the through rate.

A. Upon shipping in there is probably then, upon that system of figuring, not so much of a discrimination in favor of Lincoln, except that it gets it goods in there for 80 cents, and then to all the other towns is added more per ton per mile than Lincoln pays from Lincoln on.

Q. You have expressly said already that these other towns get the benefit of the Lincoln rate?

A. They get the benefit of this 50 miles, but they don't get the benefit of the same reduction for 96 miles from Lincoln to Hastings, that is per ton per mile.

Q. Then do you think that makes a discrimination against those people?

A. I cannot figure it out any other way.

Q. Then you think that they ought to have the differential of five cents clear through the country?

A. I think this. If the railroad company can haul freight from the Missouri River to Lincoln for a cent a ton

per mile, they could haul it to every other town in the state at the same rate.

Q. They do not do that on local business?

A. No, sir.

Q. Only on through business from Chicago?

A. From the east.

Q. From the east?

A. Yes, sir.

Q. So you think that in making a rate from Chicago to Lincoln which is a low rate that the same rate ought to be made for all towns west of Lincoln, do you?

A. Yes, sir.

Q. And it is in that that the discrimination exists that you have been complaining of?

A. Mostly; yes, sir.

Q. Is it not altogether?

A. That and the out shipment, too.

Q. Is not the out shipment on the same business?

A. No, sir; I understand it is not; I understand Lincoln has a lower rate out than Omaha and these other places.

Q. What is the first class rate from Lincoln to Chicago?

A. From Lincoln to Chicago?

Q. Yes; that is out?

A. I mean out in the state; out to other towns in the state.

Q. Oh, you are not talking about going back to the east?

A. No, sir.

Q. These towns west of this imaginary line get the benefit of the reduced rate from Lincoln, don't they?

A. Yes, sir.

Q. So there cannot be any discrimination against them in that respect, can there?

A. Not any more than other towns in the state.

Q. There is not any, is there? They get the benefit of the concession made to Lincoln?

A. Yes, sir; they get the benefit for that first 50 miles, but after that 50 miles they dont get the benefit that Lincoln does.

Q. Is it not perfectly legitimate for the railroad to charge a higher rate out in the extreme western arid region than it is within 50 miles of Lincoln?

A. On through shipments from the east?

Q. I am not talking about through shipments from the east; you wanted to talk about shipments from Lincoln, and that these people did not get the benefit, and I want to see whether they get the benefit of it?

A. That arid region commences in the western part of the state, and the other rates commence as soon as you leave Lincoln west.

Q. I thought you said they commenced 50 miles west?

A. Not from Lincoln west; 50 miles from the Missouri River.

Q. Your complaint then is that the same rate per mile is not charged west of Lincoln that is charged on Chicago business to Lincoln; is that it?

A. No, sir; what I say is this: that Lincoln has the benefit of a 50 mile haul at a very low figure, at five cents on first class; now then, in order to equalize or place Lincoln on the same footing in regard to doing business to surrounding towns in the state, it has a lower rate out than Missouri River points, of five cents on first class. That rate, as I understand it, is not enjoyed by towns west of Lincoln.

Q. Let us see about these distances; what is the distance from Chicago to Omaha?

A. Five hundred miles.

Q. Are you exact?

A. Why, there is one road that makes it 478, and another one 400 and something, 490, and another one 504.

Q. What makes it 478?

A. I have forgotten what road that is. I have forgotten the shortest road between the river and Chicago.

Q. Is not the shortest road 490 miles?

A. Well, I was probably figuring in the road to the Missouri River, and not to Omaha, on the 478 miles, that would place it at Plattsmouth, Pacific Junction?

Q. Now, you say instead of its being 478 miles to Omaha, you mean to say it is 478 miles to the Missouri River at Plattsmouth, is that right?

A. I think those are the figures.

Q. And how far is it to Lincoln from Plattsmouth?

A. Fifty-five miles by the cut-off, I think the 478 miles takes it out to Pacific Junction, which is five miles, I think, east of Plattsmouth.

Q. Are there not other elements in the problem of fixing Lincoln rates besides distance, to be legitimately considered?

A. I think not.

Q. You think it is just the element of distance that is to be considered there, do you?

A. Yes, sir; I think that that is the legitimate way of considering the rates, legal way.

Q. You do not think any other considerations ought to be taken into account but distance, as a general principle?

A. Not in a legal sense.

Q. Always a question of distance and not of any other considerations? Is that so?

A. I think that is the legal sense of making rates.

Q. How far is it from St. Louis to Lincoln?

A. My recollection is about 450 miles, but these are figures I have not looked at for a long while, and I cannot vouch for their accuracy.

Q. Then you think the rate from St. Louis to Lincoln ought to be a good deal less than from Chicago to Lincoln?

A. Fifty miles less.

Q. An allowance of 10 per cent?

A. Why, it might not be the exact 10 per cent., but it would be for the rate of fifty miles at the end of a long haul.

Q. Don't you know that the railroads all charge the same rates from Chicago to Lincoln and from St. Louis to Lincoln, and always have?

A. I don't know about that, Mr. Woolworth, I presume that is true, but I would not say.

Q. Did not the Inter-state Commerce Commission say that is perfectly proper for railroads running from distant points to a common point to disregard the element of distance?

A. Well, they may say it is sometimes justified to do that, but I do not believe they say it is the legal, cold legal way of making rates.

Q. Is it not the general rule of railroads that the short line makes the rate?

A. Yes, sir; I believe that is the general rule.

Q. Distance, then, does not govern the rate, does it?

A. Not when the railroads make them themselves.

Q. If it should turn out that the Inter-state Commerce Commission approved of that system, the system of making rates by the railroads without regard to distance but upon the consideration of other elements, you would think their judgment on that matter would be correct, would you not?

A. I would think this: that they had taken into consideration competition between towns and between railroads, and rather than disturb the situation of affairs as they found it, why, they would sanction it.

Q. Now, Mr. Dilworth, you are an expert in railroad operation, don't you know that is the principle on which the Inter-state Commerce Commission decided the cases between the Lincoln board of trade and the railroad companies?

A. Well, I do not recollect enough of that case to answer that, Mr. Woolworth; it has been a couple of years since I have read it, and then only read it hastily.

Q. Well, I should think if you have kept yourself well informed on this business you would know about it. Did I understand you correctly, I do not know whether I did or not, that the present local rates from Omaha to Lincoln are less than they would be under House Roll 33?

A. That applied to the proportion of through shipments.

Q. It is true of the local business between Omaha and Lincoln?

A. Not for freight that would start at Omaha and end at Lincoln.

Q. What you mean to say was that the proportion of the through rate from Chicago to Lincoln considered as paid for by the differential, the five cents, is less than House Roll 33?

A. Yes, sir.

Q. You do not think local rates in Nebraska ought to be any higher than they are in Iowa, do you?

A. Well, that is a pretty hard question to ask, Mr. Woolworth.

Q. It is easy to ask?

A. I know it is easy to ask.

Q. Well, do you find it hard to answer?

A. They ought to be some higher in Nebraska than in Iowa, that is my honest conviction.

Q. Why?

A. Because the population of the State of Nebraska is less to the mile than it is in Iowa.

Q. So that it yields a less volume of business, is that the reason?

A. Yes; that is the reason.

Q. Any other reason?

A. I believe that is the only reason, Mr. Woolworth, that I have in my mind now, that may be offset some by the difference in the cost of building railroads in this state and in Iowa.

By Mr. Webster:

Q. I wish you would explain that now and save time, save me going back to it?

A. Because I believe it is cheaper to build railroads in Nebraska than in Iowa. The grades are better in Nebraska than they are in Iowa on these main lines, and the roads in Nebraska get the benefit of the through haul on all our grain shipments and stock shipments that go east to Chicago, and they get quite a business that way, and on account of the difference of the lay of the ground over which the roads run I believe a train can be run cheaper in Nebraska than it can in Iowa.

By Mr. Woolworth:

Q. Have you made any calculation to show that?

A. No, sir; I have not made any calculation of that.

Q. That is just your general impression?

A. Yes, sir.

Q. Have you given all the reasons for thinking that the rates in Nebraska ought to be only slightly above those of Iowa?

A. Why, I do not recollect of any more; there may be more, but I cannot recall any more now.

Q. Now, let me suggest one thing to you to see what significance that has in your estimation; all through Illinois and Iowa there are coal mines along almost every one of the through railroads, are there not?

A. Yes, sir; I think there are.

Q. So that the railroads are furnished their fuel right along the line and at the stations?

A. Yes; they get their fuel there.

Q. How is it in Nebraska?

A. They haul their fuel either from Wyoming or Colorado, Missouri or Iowa.

Q. Is it a very considerable distance, take the Union Pacific, where does it get its coal from?

A. I believe it gets all of its coal from its mines at Rock Springs, Wyoming.

By Mr. Webster:

I wish instead of saying from its mines, if you mean from the mines owned by the Union Pacific Company you would say that, because a Court, say down in Washington City, does not know what you mean by that.

By The Witness:

I will correct that. The Union Pacific uses coal that is

obtained from a mine owned or controlled by the company at Rock Springs, in Wyoming.

Q. How far is Rock Springs from Omaha?

A. Well, it is over 500 miles, and how far west to Cheyenne it is I do not know; I do not know just how far west of the state line Rock Springs is; it is 467 miles to the the state line.

Q. It costs just as much for the Union Pacific to haul that coal from its mines as it would to haul it the same distance from any other mines, does it not?

A. It would cost just as much for the railroad company to haul a carload of coal from its mines as it would from any other.

Q. So it does not make any difference so far as the cost of transportation is concerned whether it comes out of its mines or any other, does it?

A. Not so far as the cost of transportation is concerned.

Q. Is it not over 700 miles from Omaha to Rock Springs?

A. Possibly it is, I do not know exactly how far over in Wyoming Rock Springs is.

Q. It will cost the operation of the Union Pacific the cost of the transportation of that coal over and above what it would cost a road in Iowa for the same expense, would it not?

A. It would cost the Union Pacific the transportation, whatever that cost would be to it.

Q. Where does the Burlington get the coal it uses on its lines in this state?

A. I believe since they have opened up the mines in Wyoming at New Castle it uses that coal to a large extent.

Q. Tell me on what lines they use that coal, and how extensively?

A. I can not tell you.

Q. How far is it to New Castle from Omaha?

A. I should estimate it is between 600 and 700 miles.

Q. And that Newcastle coal has got to be hauled all that long distance, has it not, for use on the Burlington lines?

A. It does not have to all be hauled to Omaha.

Q. It has to be hauled to different points on the line of that road, does is not?

A. Yes, sir.

Q. Do you think that the Burlington on its main lines in this state is supplied from Newcastle with coal?

A. They may use the Colorado coal on their main line and the south branches, that is possible; I do not know about that; all that I know is this, that a year or two ago when the coal from Newcastle was first used on the road, that I heard a lot of the engineers kicking about it, about the new coal they had to use, that they did not like it as well as the Colorado coal.

Q. Is it not a matter of fact that the Newcastle coal has proved a very inferior coal for use on locomotive engines?

A. I know that is what these engineers claimed at that time.

Q. Don't you know that is the fact?

A. All I know is that from them; that is the extent of my knowledge on that.

Q. Is it not a fact that a large part of the coal used on the Burlington lines in this state comes from Iowa?

A. I do not know; it may be.

Q. From whatever direction it comes it costs the company the additional expense of transportation over and above the expense they are at in Illinois and Iowa?

A. Yes, it costs the company the additional haul, the cost of that haul.

Q. Can you tell me how many tons the Union Pacific uses in the operation of its trains in this state?

A. No, sir; I cannot without refreshing my memory.

Q. Can you tell me how many the Burlington uses on its trains?

A. I cannot do that without refreshing my memory.

Q. Can you tell me how many the Northwestern does, or the Fremont, Elkhorn & Missouri Valley?

A. I cannot remember any of those.

Q. Where does the Fremont & Elkhorn get its coal from?

A. I think they use some Iowa coal and possibly some Wyoming coal, but I believe a good deal of their coal comes from Iowa, over around by Boone, or somewheres in there.

Q. Does it come from anywhere else?

A. I believe they use coal from other places, but I do not know as to that.

Q. That coal has got to be hauled to their stations on their line, has it not?

A. Yes, sir.

Q. There is one very large expense is there not, that the roads are subject to here that they are not subject to in Iowa?

A. Yes, sir; that is an item of expense.

Q. And it ought to be taken into account, ought it not in making a comparison between roads here and there?

A. Yes, sir.

By Mr. Webster:

Q. State what the expense is about it?

A. Simply the expense of hauling the coal out to the various stations that need it.

Q. That is hauled on its own cars, simply the expense of wear and tear of the train, is it not?

A. Yes, sir.

Q. They don't pay anything out for transportation?

A. Not that I know of.

Q. The cost would be trivial instead of being considerable, would it not?

By Mr. Woolworth:

Q. They use engines for that purpose?

A. Yes, sir.

Q. And they use cars for that purpose?

A. Yes, sir.

Q. And they have men for that purpose?

A. Yes, sir.

Q. Don't you think that amounts to considerable?

A. It amounts to something, of course. When you say considerable, you have got to compare it with something else; it does not amount to as much to the railroad company to get a carload of coal out here as it would to me to get a carload of coal from the same place; it costs the company what they have to pay for their men, and what they have to pay for the expense of hauling the car out.

Q. You think that covers the whole thing, do you?

A. And what would be the wear and tear on the car and the cost of unloading it after it got here.

Q. Don't you allow anything for the use of all this property in the course of this business?

A. Yes; they are entitled to something for the use of their rolling stock.

Q. Now, in Iowa, there is a large amount of local shipments of lumber, is there not?

A. Yes, sir; there is quite a lot of lumber, as I understand it, that comes from the Mississippi River and stops at the river towns and is shipped out through the state—is milled at the towns—the logs are floated down the river and are sawed into lumber at different towns along the river, and is distributed out through the state.

Q. There is a good deal of transportation of coal in that state, is there not, locally?

A. Yes, sir.

Q. And there is a great deal of grain and agricultural products sent out of the state, is there not?

A. Yes, sir.

Q. So that it happens that cars coming in loaded with lumber and other material, go out also loaded with grain and other material; is that not so?

A. Yes, sir.

Q. That makes a very great difference, does it not, in the operation of a railroad, whether you run freight one way and empties back or have freight both ways?

A. Yes, sir; that is an element in the operation of a railroad that should be taken into consideration.

Q. It is a very great element, is it not?

A. It is quite an element, yes, sir.

Q. What is the fact in this state on that subject?

A. Well, we have grain to ship out and we have lumber and coal to ship in. While our grain shipment out is not so large as Iowa, probably our lumber and coal shipment in is not so large, and the proportion of empty cars, taking those things into consideration, may not be so great as a person would at first think between this state and Iowa.

Q. What proportion do you suppose, from your knowledge of railroad operations, what proportion do you suppose of the freight cars are run empty in this state on the Union Pacific?

A. Well, sir, I have no idea.

Q. What is it on the Burlington?

A. I believe, from my recollection, that one-fourth of the cars in the train are empties.

Q. What is it on the Elkhorn?

A. Well, I am not making a distinction between any of the roads now.

Q. You would say one-fourth on all of the roads in the state run empty, is that so?

A. I believe that proportion is pretty near correct, that is just simply from my recollection; I would like before I am positive on that to refresh my memory.

Q. What sources of information would you resort to to refresh yourself on that subject?

A. From the reports of the railroad companies to our Board.

Q. What is the local rate from Chicago to Rock Island on the Rock Island road?

A. I cannot tell you that.

Q. What is the local rate from Chicago to the east bank of the Mississippi River by the Burlington?

A. Well, on what?

Q. First class?

A. I cannot tell you.

Q. What is it from Chicago to Clinton on the Northwestern?

A. I cannot tell you any of those now, because I cannot remember what they are. First I would have to remember the distance and then I would have to get the local tariff and figure it out that way, and I do not recollect that

I ever figured it out on any class rate. I figured it out one time on grain rate.

Q. What are the local rates from Davenport to Council Bluffs on the Rock Island?

A. I could not tell you that; I do not know the distance, and I do not recollect what the rates are.

Q. And on the Burlington, from Burlington, Iowa, to Pacific Junction?

A. It is the same way; I cannot remember the figures.

Q. You cannot give any of the figures, can you?

A. No, sir, I can not.

Q. Is it not a general principle among railroads in fixing rates that rates are fixed from what are called or may be known as rating towns, or rating lines, without regard to state lines at all?

A. That is generally the way they fix rates, is along their whole system of lines.

Q. They don't pay any attention to state lines on inter-state business, do they?

A. Well, whether they pay any attention or not, that is something I cannot say, but on their rate sheets they seem to figure from the point of origin through to the destination without paying any attention to state lines.

Q. I am speaking about the basis of fixing their through rates?

A. Why, I do not think they take into consideration state lines or anything of that kind. They take into con-

sideration the competition and the distance, and mostly the competition they have got to meet.

Q. Now, Chicago is one of these rate basing places or points, is it not?

A. Yes, sir.

Q. And the Missouri River is another?

A. Yes, sir.

Q. And the railroads always have fixed their rates for points west of the Missouri River from Chicago upon those basing points, is that not true?

A. That is as I understand it, yes, sir.

Q. How much do you know about it; you say as you understand it?

Y. It seems to me I have told about all I know about this matter; whether I have told any more or not, I don't know.

Q. Do I understand you that the Union Pacific gets all of its coal from its mines in Wyoming?

A. No; I do not want to be understood that way, that is I think that they do, but they may use other coal.

Q. Don't they get a great deal of coal from Missouri and from Iowa?

A. It is barely possible that on this end of the line they do, I would not say as to that.

Q. Don't you know they do that because it is a great deal cheaper than it is to haul the coal from their own mines?

A. It may be possible, I do not know much about it, that is the fact of the matter.

Q. Tell us all you know about it.

A. I can tell you this; they own mines up there in Wyoming which furnishes probably as good, if not better, soft coal than any other mines in this part of the country, and they have for years furnished the stations, towns, along their line of road with this coal.

Q. What rate do they charge for their coal at these towns when they sell it to the people?

A. I can tell you what I have paid for it in the western part of the state, that is from $7 to $8 a ton; now if they do not use all the coal on their own line, it may be that they can sell it more profitable to other people, and buy cheaper coal that will serve the same purpose for steaming.

Q. That is a mere inference on your part?

A. Yes, sir; from my knowledge of the coal it is a coal that is greatly in demand by consumers.

Q. Mr. Dilworth, I understood you to say the rates from Denver are not affected by rates in this state?

A. I don't see how that can be.

Q. What rates do you refer to when you make that statement, rates on freight beginning and ending where?

A. Beginning in this state and ending in this state; I do not see how those rates can effect the through rate from Chicago to Denver or the rate from any place in this state to Denver, or from Denver to any place in this state.

Q. There are considerable shipments of grain from the western part of the state to Colorado, are they not?

A. Yes, sir.

Q. Do you think those rates on that grain are not affected at all by the rates in this state?

A. The local rates.

Q. In this state?

A. I do not see how they can be.

Q. I want to call your attention to what you say with reference to the rates on sugar from San Francisco to McCook, what is the rate from San Francisco to Omaha on sugar?

A. I believe it is 63 cents.

Q. That is a very low rate, is it not?

A. Yes, sir; that is as I consider it, if that is the through rate, a very low rate, and to the best of my recollection it is 63 cents.

Q. Why is that rate made so low on that product?

A. Why, as I understand it, it is made that low for the reason that it comes in competition with sugar from the east and also from the south.

Q. It is absolutely necessary in order to make a market in Omaha for San Francisco sugar to make a low rate in competition with the sugar from New York and New Orleans, is it not?

A. Yes, sir.

Q. If it were not so it would be shut out of this market?

A. It could not be used here except by paying the higher rate; it would cost more for the sugar.

Q. It could not be sold at all, then, if brought in competition with New York and southern sugar.

A. Not if the New York sugar were put in here at 63 cents and the other had to pay 98, or something of that kind; it would be shut out, certainly

Q. It would be shut out if it had to pay 65 cents.

A. It would cut off some of the profits; yes, sir.

Q. Sugar is sold on a very narrow margin, is it not?

A. Yes, sir.

Q. And could not stand the two cents.

A. Well, I am not informed enough on that to say whether it could stand two cents or not, but I doubt if it could.

Q. Supposing San Francisco sugar were shut out of this Omaha market, and New York sugar were laid down here under a tariff of sixty-three cents, what would the McCook merchant have to pay for sugar then?

A. He would have to pay just about the same as he does now.

Q. Pay just the same as he does now—pay the Omaha rate from here to McCook, would be not?

A. Yes, sir.

Q. Don't you know this question of sugar has been the subject of investigation before the Inter-state Commerce Commission?

A. I know it has been the subject of investigaiion

before two or three tribunals, but I do not know the certain whether it has been before the Inter-state Commerce Commission, possibly so.

Q. What other tribunals has it been before?

A. Before the courts in Kansas, and before the Board of Transportation down there, the sugar rates.

Q. Any other courts?

A. I do not recollect of any.

Q. Do you mean the State Board of Transportation?

A. Yes, sir; the State Board of Transportation, and the local courts and the federal courts.

Q. I speak about the State Board of Transportation?

A. Yes, sir; before the local commission there.

Q. Now, did not the Inter-state Commerce Commission approve the system of fixing the rates for McCook and points located like that, by making the rate at McCook the rate to Omaha and the rate back to McCook?

A. If they did I do not know it.

Q. You won't say they did?

A. No, sir; I won't say what the court has done, or the jury either.

Q. Not what it has done, but what it will do?

By Mr. Webster: That is a matter of record, what a court has done.

By Mr. Woolworth: That is what I am speaking about, he has been testifying all morning about what he has read.

Q. You say, Mr. Dilworth, that the rate on sugar from San Francisco to Omaha is 63 cents?

A. That is my recollection, I may be wrong, but I think it is 63.

Q. Do you know the rate has been reduced to 50 cents within a short time?

A. No, sir.

Q. Within forty days?

A. No, sir; I do not know it; it possibly has, but I do not know that; I have not ascertained that fact.

Q. Do you know any reason for causing that very great reduction?

Why, no; I do not know why it should be reduced or why it should not be lower.

Q. I suppose it would be caused by a very great reduction of transportation around the Horn from San Francisco to New York and Philadelphia, would it not?

A. Yes; it might be caused by that.

Q. That effect would be produced by the operation of the general law governing railroad transportation, would it not?

A. It would be produced by the law of competition.

Q. What would the effect upon Omaha and its business be if House Roll 33 were to go into effect and the railroads were to take the local rate from Omaha to Lincoln in place of the differential as it now exists?

A. I do not see as that would injure Omaha any.

Q. I am not asking you if it would injure Omaha any; I am asking you what the effect would be?

A. I do not know as I understand your question; I do not want to evade anything.

Q. Would it give Omaha any greater advantage than it now enjoys in doing business throughout the state?

A. In all but a few localities I expect it would.

Q. That advantage would be very great, would it not?

A. Yes, as compared with Lincoln and the other places.

Q. What would the effect be on Lincoln?

A. It would hurt Lincoln.

Q. Hurt it badly, would it not?

A. Yes, sir, its jobbing interests.

Q. Pretty near drive them out of business, would it not?

A. It would prevent any new business from going in, anyhow, to say the least.

Q. Would not it destroy the jobbing interests?

A. I believe it would.

Q. And the same is true of other towns in the state which now enjoy the differential you have spoken of?

A. Yes, sir.

Q. I understand you to say those differentials are given to all towns between Lincoln and the river?

A. They get the benefit of this first fifty miles, or five cents.

Q. Supposing the bill were to go into force and the

differentials were continued by the railroads, what effect would that have on Omaha?

A. It would not have as good an effect as it would the other way; it would place Lincoln, if the same condition exists as it does to-day in regard to making rates, Lincoln would be a great deal better distributing point than Omaha, that is for nearly all the stations in the state it would be 50 or 55 miles nearer to those towns than Omaha.

Adjourned until 2 P. M.

OMAHA, Friday, April 13, 1894, 2 P. M.

Pursuant to adjournment, the further taking of testimony is resumed as follows, to wit:

Continuation of cross-examination of the witness, Mr. Dilworth, by Mr. Woolworth.

Q. You said that four-fifths of the state were discriminated against the rates that were given to Lincoln, do you mean four-fifths of the area, or of the population?

A. What I had in mind was the area at the time I answered, but I think that would apply to very near the population also.

Q. You think, then, between the line that runs through Lincoln, to which the differential of five cents on first class was given, the country east of that line is only one-fifth of the population of this state?

A. And not running further north than Fremont.

Q. And not running further north than Fremont?

A. Yes, sir.

Q. You said, as I understand you, that the people

west of Lincoln had to pay three times as much as those east of Lincoln; do you mean on freight from Chicago or on local freight?

A. I mean by that that the people west of Lincoln paid for the proportion of the haul from the east that lies in the State of Nebraska three times more than what Lincoln did for the proportion of the haul of the freight from the east to Lincoln.

Q. I expect I am pretty stupid, but I can't get hold of that?

A. That is, freight coming from the east to points in Nebraska; there is, of course, a certain amount of the shipment that comes through the state that is hauled in the state. Now what I mean is that that amount that is hauled in the state, that the towns outside of Lincoln pay three times as much as Lincoln does for that.

Q. Three times as much per ton per mile, is that what you mean?

A. Yes, sir.

Q. That is to say, Lincoln pays in addition to the rate from Chicago to the river, five cents per hundred on first class, and a town west of Lincoln would pay three times as much as that for the distance from the river to that town, is that what you mean?

A. What I mean is this; that Lincoln pays about one mill per ton per mile and the towns west of Lincoln would pay three times that for the freight after it crosses the Missouri River and gets to their town; that is what I meant.

Q. You go on the theory that the Lincoln man pays only the differential from the river to Lincoln for that part of the transportation?

A. Yes, sir.

Q. That is not true, is it?

A. Why, I think it is.

Q. But you have stated already that local freight from the river to Lincoln pays a good deal more than that?

A. Local freight that starts at the river pays more than that, certainly.

Q. Now, do you understand that that differential is given on account of transportation through from Chicago to Lincoln?

A. From points east of the Missouri River to Lincoln, yes, sir.

Q. Then the transportation from the river to Lincoln is not simply the five cents, is it?

A. Well, of course, the freight that is east of the river that may enter in as a consideration for lowness of the charge.

Q. Don't you know that it does?

A. I know that differential does not apply to any other rate except the rates that come from the east of the river to Lincoln.

Q. Looking at the table which you introduced, I see that you give the net earnings per mile on the Burlington & Missouri main line; what line is that?

A. It is the line from Plattsmouth to Kearney.

Q. Do you include in the earnings of that line freight coming from other branches of the Burlington system on to that line?

A. Everything that comes over the line.

Q. So that if, for instance, freight came on to that line from the Republican Valley, you would not include the cost of transportation on the Republican Valley, but only the cost of transportation on the main line?

A. That is all; yes, sir.

Q. And the same is true of earnings?

A. Yes, sir.

Q. And the same is true of every other railroad which is tributary to the main line, is it not?

A. Yes, sir.

Q. Now, if those branches which bring freight to the main line do not make anything like as much as the main line, you do not take that circumstance into account at all, do you?

A. I just took the business done by the main line.

Q. You do not make any allowance for losses on branches, do you?

A. I just took the main line as though that was the sole line that there was.

Q. Well, don't you know that no one of the branches of the main line bringing the traffic to the main line pays anything like the per cent. that you figure out for the main line.

A. Well, the Omaha & Southwestern does not come

up to it, of course, but it comes up pretty well; the Atchison & Nebraska is the next largest is my recollection, and that comes up fairly well.

Q. How was the Republican Valley?

A. The Republican Valley does not come up so well, I think the Republican Valley probably comes next to the Atchison & Nebraska, so far as net earnings are concerned.

Q. Tell us what the net earnings per mile of the Republican Valley are?

A. I believe for 1892 they were $1,200 a mile.

Q. How much for the Atchison & Nebraska?

A. I think $3,000.

Q. How much for the Republican Valley & Wyoming from Culbertson to Imperial?

A. That was about $200 the other way.

Q. How much on the Lincoln & Black Hills?

A. That was the other way if I recollect right.

Q. How much on the Republican Valley from Nemaha to Salem?

A. I don't know.

Q. This is, I suppose, all of the business that is done on the main line?

A. Yes, sir.

Q. Through, in and out, and out and in?

A. Yes, sir; it is the operations of the main line for those years.

Q. Now, take the Union Pacific, in making these fig-

ures, did you make any allowance for the charge upon the Union Pacific for the expense of operating its branches?

A. No, sir.

Q. You just took the main line, did you?

A. Yes, sir.

Q. From Omaha to the west line of the state?

A. 467.48 miles.

Q. If then it should turn out that the Omaha & Republican Valley, for instance, a feeder to the Union Pacific, did not make a dollar net, you would not make any allowance on that account?

A. I didn't take into consideration the Omaha & Republican Valley at all?

Q. Nor any other of the lines of the Union Pacific, except the one main line?

A. That is all, the one main line.

Q. And all these roads, you give the earnings on all the business through, in and out and out and in?

A. Yes, sir.

Q. Mr. Dilworth, I understand you to say that there are several railroads in this state which have what you term territory where there is very little, if any, competition? Name one such road?

A. The Grand Island & Wyoming Central, I think is the name of it; the Fremont, Elkhorn & Missouri Valley from O'Neill west; the Union Pacific from Grand Island and Kearney west.

Q. You do not think those roads have any competition in that region?

A. Not except as you get to Crawford, where the Burlington & Missouri strikes the Fremont & Elkhorn.

Q. Now, in that region of territory where they are not in competition with other roads, do they charge any more per mile than they do for the other parts of their lines?

A. On what kind of freight?

Q. Any kind of freight?

A. No, sir; I do not know as they do.

Q. Is it not a fact that they do not?

A. I won't say that it is a fact that they do not.

Adjourned until 10 o'clock to-morrow morning.

OMAHA, Saturday, April 14, 1894, 10 A. M.

Pursuant to adjournment, the further taking of testimony is resumed, as follows, viz.:

RE-DIRECT EXAMINATION OF MR. DILWORTH.

By Mr. Webster:

Q. Mr. Dilworth, I desire to draw your attention to the question of the cost of coal to the Iowa roads and the Nebraska roads about which you were cross-examined, and ask you to state, if you know, what it costs the Iowa roads for coal?

A. I know what it cost the C., B. & Q. road for 1892.

Q. How much was that?

A. $1.40.

Q. Now, do you know how much it costs the Union Pacific Railroad for coal?

A. For the same year; yes, sir.

Q. How much?

A. $1.40.

Q. That is two cents, then, in favor of the Union Pacific?

A. No, sir; they are just even; that was counting in a lot of wood they used on the Union Pacific that raised the consumption of fuel two cents more than the bituminous coal.

Q. Then, I understand you, the cost to the Burlington in Iowa and the Union Pacific in Nebraska, is the same for coal?

A. Yes, sir.

Q. Aside from that, what do you know about the Union Pacific making a profit out of its coal mines?

Objected to by Mr. Woolworth as immaterial.

A. Well, they sell their Rock Springs coal on the market of this state, and it costs the consumers anywhere from $6 to $6.50 to $7 a ton.

Q. Is not the coal of the Union Pacific sold in Omaha in competition with the Iowa and Missouri coal?

A. Yes, sir; it comes in competition with them most any place in the state where the Union Pacific can deliver coal.

By Mr. Woolworth:

Q. How much do you say a ton?

A. From $5.50 to $6.00 and $6.50 and $7.00.

By Mr. Webster:

Q. What do you know of the quality of that coal compared with the Iowa and Missouri coal?

A. It is a better quality of coal.

Q. Is it not in fact the best bituminous coal of which we know anything about in this market?

A. I think so.

By Mr. Woolworth:

This Union Pacific coal is not bituminous coal at all, it is lignite, it is an entirely different quality of coal.

By Mr. Webster:

Q. Mr. Dilworth, is it not a fact that the Union Pacific usually, or frequently hauls its coal in from its mines on cars that would otherwise be empty, that are being brought in with its freight trains in general?

A. Yes, sir; it has cars for the use of coal exclusively, that is not exclusively, they haul other stuff on the cars to haul it west, and then coming east I know of nothing else they would put on those cars except coal, to any large extent.

Q. The fact I wish to draw your attention to is whether or not those cars are in small numbers, attached to some regular train, and brought in so as to not entail upon the company any additional expense?

A. Yes, sir; these coal cars go in to make up a train to a large extent.

Q. And are not, if you know, these coal lands belong-

ing to the Union Pacific Railway company, lands which fall within the lands coming to the railway company by the government grant?

A. I think a large portion of them were, if not all of them; a large portion of them were.

Q. And if that be so its coal costs The Union Pacific Railway Company nothing except the mere expense of mining and delivering on the track?

A. That would be all.

Q. In what year was it that the local rates were established in the State of Iowa?

A. My recollection is they were established by the Board in 1888.

Q. By that do you mean that the rates which are now in force in Iowa were established in 1888?

A. Yes, sir.

Q. Now, at that time the population and local tonnage in Iowa was greater or less than it is at the present time?

A. It was considerably less than it is at the present time.

Q. And in the same number of years has or has not the population and tonnage of Nebraska increased?

A. Yes, sir; very much so.

Q. Now, do you know whether or not the percentage of increase in population in Nebraska is not much greater than it is in the state of Iowa during the last five years?

A. Yes, sir; it is a great deal more.

Q. Now, having taken into account or considered the foregoing matters answered by you, will not the increased cost of construction and operation of a road in the State of Iowa practically equal or overcome the reasons given by you on your cross-examination to the point that there were some reasons why the rates in Nebraska should be higher than in the State of Iowa?

A. Well, taking into consideration that the time the rates were first made over in Iowa there would not be so great a reason why the rates should be greater in Nebraska at the present time than they were when they were first established in Iowa.

Q. Now, drawing your attention to your cross-examination on the question of sugar from San Francisco, let me ask you whether or no the same grades and qualities of sugar are delivered at Omaha from New York or New Orleans at 63 cents, if that is the price for which you stated they were delivered from San Francisco?

A. Yes, sir; that is my recollection of the price, and think they are the same grades, same class of sugar.

Q. Then when the rate from San Francisco to Omaha n the Missouri River was fixed at 63 cents, was it, as you nderstand it, to put that San Francisco sugar in competition ith sugar coming from New York or New Orleans?

A. That was the effect, to give the San Francisco igar a market.

Q. Then if that was the theory upon which the 63 nt rate was fixed from San Francisco, if upon the other

hand, the railways from New York and New Orleans would put the New York and New Orleans sugar at the Missouri River points at 75 cents instead of 73 cents, then the western roads would increase the price from San Francisco, would they not?

A. I do not think there would be any question but what they would be.

Q. Then the principle upon which the rate on sugar from San Francisco is fixed is to charge for freight all that the owner of the sugar can afford to pay and yet have his sugar put upon the market?

A. Yes, sir; I think that is the basis of figuring that sugar rate.

Q. So that if the price of sugar should be increased at Omaha from other causes, such as scarcity or other like reasons, the San Francisco shipper of sugar would not enjoy the benefit of that price, but the railways would increase their freight tariff so as to absorb that increased market price of sugar?

A. That is, from San Francisco they would have to regulate their freight rates to meet the competition from the east and from the south, and those railroads, if they raised the rates up to absorb this profit, why the western roads would do the same, because they put it on the same footing here as the eastern and southern sugar; they put it on the Missouri River at that price.

Q. That does not quite catch my point. I am not speaking of where sugar is affected by railway rates from

New York and New Orleans, but where the market price should be increased on account of the scarcity of the article, or the increased demand for the article, whether in that event the railways from San Francisco would increase the tariff rate so as to consume that margin of profit?

A. I think they would if the sugar was raised to any appreciable extent; mere fluctuations for a few days, or something of that kind, I do not think would affect the rate, but if it appeared to be a permanent raise, then I think the railroads would reap the benefit of it.

Q. Mr. Dilworth, did you prepare, or cause to be prepared, the exhibit attached to the answer in the case of Higginson vs. The Chicago, Burlington & Quincy Railroad, marked Exhibit "B", being a statement of the capital stock, net earnings, dividend paid, etc., for the respective years set down in that exhibit?

A. Yes, sir; I prepared those tables or those exhibits.

Q. And what do you know about the correctness of that table, as to whether or not it is correct?

A. Well, I obtained it from reports, and to the best of my belief it is correct.

Q. Did you likewise prepare the exhibit attached to the same answer, being marked Exhibit "C", showing the dates and the amounts of dividends paid?

A. Yes, sir.

Q. And state whether or no that is correct?

A. Yes, sir, to the best of my knowledge and belief it is; it is taken from the same source of information.

Q. Calling your attention to Exhibit "A" in the answer in the Burlington case, I will ask you whether that table was prepared by you, and also what you know as to its correctness?

A. Yes, sir; that was prepared by me, and is correct.

Q. I desire to call your attention to a statement in the body of the answer in the Burlington case, purporting to be a statement of dividends stock issued by the company, setting forth the dates when issued, the amount of the per cent., etc., making a total of $40,000,000 of dividend stock, and ask you to state whether that table or statement was written down and furnished by you? This table will be found in paragraph 5 of the answer?

A. It was prepared by me for the answer, yes, sir.

Q. Now, in that connection, let me ask you, Mr. Dilworth, whether you prepared the tables attached to the answers in the Northwestern case, the Union Pacific case, and, in short, all the other cases relating to the question of stock and dividends?

A. Yes, sir.

Q. And what can you say as to their correctness?

A. To the best of my knowledge and belief they are correct.

Q. In that connection, I will a little more particularly call your attention to Exhibit "A" to the answer in the Union Pacific case, representing capital stock and funded

debt, in which you seem to have divided that up, the main line and the Republican Valley, and the St. Joseph & Grand Island, and ask if that is correct, so far as it goes?

A. Yes, sir.

Q. I wish now to inquire further, Mr. Dilworth, whether or no that table includes the stock and funded debt upon the other branch lines of the Union Pacific; or whether it includes all the branch lines of the Union Pacific that are within the State of Nebraska?

A. There are no branch lines of the Union Pacific, the Omaha & Republican Valley is operated separately and has a separate system of financial regulation, keep their finances separate from the other line.

Q. The simple point I want to get at is whether the lines that are set down in the exhibit includes all the roads which are operated by the Union Pacific in the State of Nebraska?

A. Not at the present time; the Kansas City & Omaha is not here, and the Kearney & Black Hills is not here, and I understand at the present time they operate that line, but I do not know as to that at the time this was prepared.

Q. In short, in that statement you have included nothing in the computation that are therein set down, except that which forms a part of the three respective roads named in that exhibit?

A. That is all, yes, sir.

Q. Now, if you can, Mr. Dilworth, I would like to

have you cause to be prepared to be attached to your testimony as an exhibit, a tabulated statement which would show the amount of the funded debt and the amount of the stock, then below that the sums total of each of the respective railroad companies within the State of Nebraska, so arranged in tabulated form as to be all on the one sheet of paper, by which you can compare the amount of such funded debt, capital stock of the Sioux City & Pacific, Fremont, Elkhorn & Missouri Valley, Union Pacific, the Republican Valley, the Burlington & Missouri River Railroad in Nebraska, and so on, within the State of Nebraska; for this purpose taking the debt amount confined to the date when the Newberry bill was passed, by that I mean such date as will come nearest to that on which you can get the material to make the computation.

Said tabulated statement is attached hereto, marked Defendant's Exhibit "23", of which the following is a copy:

Defendant's Exhibit 23."

Statement showing mileage, capital stock and funded debt of the following named railroads for the year ending June 30th, 1892.

	Entire Mileage	Capital Stock	Funded Debt	Total	Capital Stock Per Mile	Funded Debt Per Mile	Total Per Mile
C., B. & Q.....	5290	$76,397,400	$116,580,980	$192,978,380	$14,439	$22,034	$ 36,473
C., St. P., M. & O....	1356	34,050,126	23,742,800	57,792,926	25,103	17,504	42,608
F., E. & M. V.....	1300	30,370,000	21,119,000	51,489,000	23,352	16,238	39,596
U. P. Ry	1826	60,868,500	128,734,397	189,602,897	33,318	70,468	103,786
O. & R. V	482	2,420,550	5,941,000	8,361,550	5,021	12,324	17,345
St. J. & G. I	251	4,600,000	8,721,405	13,321,405	18,322	34,768	53,060
K. C. & O.....	193	4,410,000	2,713,000	7,123,000	22,769	14,007	36,007
Mo. Pacific.....	1060	47,436,575	51,376,000	98,812,575	44,746	48,462	93,208
Pacific R. R. in Neb...	73	1,095,800	1,095,000	2,190,800	15,010	15,000	30,010
K. & B. H.....	65	931,606	887,000	1,818,606	14,175	13,496	27,625
C., R. I. & P.....	2743	46,156,000	56,857,000	103,013,000	16,822	19,545	36,368

Prepared by W. A. Dilworth.

Mr. Woolworth reserves the right to cross-examine Mr. Dilworth on Exhibit "23."

The State Board of Transportation offers in evidence a duly certified copy of the original of the journals of the House of Representatives in so far as the same relates to the passage of the law in controversy in this suit, known as House Roll No. 33. Said copy is attached hereto, marked Defendant's Exhibit "24."

Mr. Woolworth objects as immaterial, irrelevant and not properly certified.

The State Board of Transportation also offers in evidence a duly certified copy of the law in controversy in this suit as filed in the office of the Secretary of State, showing the signature thereto of the presiding officers of the representative branches of the Legislature, and also the signature of the Governor approving the same. Said certified copy is attached hereto, marked Defendant's Exhibit "25."

Mr. Woolworth objects to Exhibit "25", on the ground that it is not properly certified, and the certificate is not true in point of fact.

RE-CROSS EXAMINATION.

By Mr. Woolworth:

Q. Do yon mean to say that coal is brought in from the mines on the Union Pacific in cars which went out from Omaha loaded?

A. Not always, no, sir; but those coal cars that went out loaded undoubtedly would be brought back loaded with coal.

Q. But you cannot say whether they went out loaded or empty, can you?

A. Not always; no, sir.

Q. Well, how are these coal cars marked?

A. I do not know as I understand your question, Mr. Woolworth.

Q. They are run upon the Union Pacific road, cars constructed and used specially for coal, are they not?

A. Yes, sir; they are what are termed coal cars.

Q. Now, what words are painted on those cars?

A. I do not know; I know there are box cars that are used sometimes for the transportation of coal that have the words, "C. B. Havens & Co.", and, I don't know, I don't recollect whether they say coal dealers on them or not, but I understand they are coal dealers—"C. B. Havens", and, possiby, "Coal Company."

Q. Their names are only on the box cars?

A. I don't recollect of ever having seen any flat cars with their names on.

Q. This coal disintegrates very rapidly does it not, on its exposure to the weather?

A. I do not know.

Q. Don't you know that all the coal business, substantially all the coal business on the Union Pacific, including the railroad supplies, is carried in cars marked "C. B. Havens & Co."?

A. I do not believe that all of it is.

Q. Well, state why you say you do not believe that all of it is?

A. Because I have seen Rock Springs coal in flat cars; now, whether that comes from Rock Springs in flat cars, or whether it is sent out from some distributing point in flat cars I cannot tell you, but I have seen it unloaded out of flat cars.

Q. How much have you seen unloaded in that way?

A. Well, that is impossible to state, but I have seen cars loaded with Rock Springs coal—car after car of flat cars.

Q. Well, do you suppose you have ever seen a hundred cars unloaded?

A. I cannot say I have seen them unloaded, but I have seen more than a hundred flat cars loaded with Rock Springs coal.

Q. Have you seen as many as two hundred?

A. Yes, sir.

Q. Give us some idea of the extent of your observation?

A. It is impossible to do that; I used to travel a good deal on The Union Pacific Railroad, and I have seen car after car of Rock Springs coal loaded on flat cars.

Q. That is the observation you have had, from which you are now speaking, is it?

A. Yes, sir.

Q. Were those flat cars in trains, or were they detached cars mixed up with cars loaded with other freight?

A. I do not recollect of ever having seen an exclusive coal train; there has always been other cars along in the train.

Q. Is it not a fact that sometimes the railroad brings in full trains of coal for its own use in cases of emergency?

A. I do not know about that.

Q. What you mean to say, you have not seen full trains?

A. No, sir.

Q. But there may be full coal trains on the road, may there not, without your having seen them?

A. There may have been; yes, sir.

Q. That may have been a matter of very frequent occurrence, Mr. Dilworth?

A. It may be in the last three or four years.

Q. Was your observation, you speak of, years ago, or within the last four years?

A. O, most of the coal I have seen was at a time when we lived west, six or eight years ago.

Q. That is, when you lived at Hastings?

A. No, sir; when we lived up west; at Lexington, it is now.

Q. When was that?

A. O, that is eight or nine years ago; in the last three or four years I have seen coal unloaded out of flat cars.

Q. Hastings is not on the main line of the Union Pacific, is it?

A. No, sir.

Q. You do not mean to say, do you, that the great bulk of the coal of the Union Pacific is brought in on cars, single cars, or two or three cars tacked on to the end of a freight train, do you?

A. No; I don't wish to be understood that way; what I wish to be understood as saying is, that I have never, in my recollection, seen an exclusively coal train.

Q. Yes, that I understand?

A. Sometimes the majority of the cars would be coal cars, and sometimes the majority would be other kind of cars.

Q. The coal being brought in just as other freight is, as necessity requires, is not that the case?

A. I do not know anything about that; I just tell what I have seen.

Q. Where did you get your information that the fuel on the Union Pacific cost $1.40 a ton?

A. From the report.

Q. To the Board of Transportation?

A. Yes, sir.

Q. Now, what does that $1.40 represent; does it include the carriage?

A. It includes the cost at distributing points; at the points where the coal is distributed for use, as I understand it.

Q. By the railroad in the operation of its road?

A. Yes, sir.

Q. Does that appear in the report that they make?

A. Yes, sir; that is, they use this term, "at cost at distributing point."

Q. And at those same points they sell coal at from $5.50 to $7.50 a ton, do they?

A. Yes, sir, I think so; I do not know as they sell Rock Springs coal as cheap as $5.50; it varies according to localities to some extent. At Hastings my recollection is that the coal is $6.50 and $7.00 and $7.50.

Q. You think the report shows the cost of mining and the carriage, do you?

A. Yes, I think that is included in that.

Q. What do you say as to the relative qualities of Rock Springs coal and of Iowa coal in respect of resistance to the weather, or their relative qualities after exposing them to disintegration?

A. Well, sir, I don't know anything about that.

Q. Don't you know it is a point of fact that the lignite coal from the Wyoming mines, on exposure to the weather for a short time, loses its steam producing power?

A. No, sir; I don't know anything about that at all.

Q. Tell us why you say that a large part of the Union Pacific coal mines are on lands granted to it by the government?

A. It runs in my recollection that I have got that from reports of investigating committees appointed by congress to investigate the conditions of The Union Pacific Railway Company and its properties.

Q. Will you name those reports from which you have derived that information?

A. I think one was called the Patterson Committee, and one was appointed before that. I have read portions of both reports, I cannot name the other one, I cannot describe it so as probably you could ascertain which one it is.

Q. That is all the information you have on this subject, is it?

A. Except that they got the land grant of alternate sections along their line of road; that includes all the information I have.

Q. You think, then, that if a mine of coal being opened on a section granted to the company, and the coal were exhausted under that section the company does not draw the coal beyond in the adjoining government section?

A. I do not know anything about that; you are spreading me over a great deal of ground.

Q. Do you know whether or not upon the even numbered sections the railroad companies have opened mines, and are mining on those sections?

A. No, sir; I do not.

Q. The local rates in Iowa, you say, were established in 1888, were they?

A. To the best of my knowledge.

Q. By the Board of Railroad Commissioners?

A. Yes, sir; those are the rates I refer to.

Q. Have they been changed since?

A. I do not think they have been changed materially;

there may be a change in the classification of some little individual articles, or something of that kind, but I do not know of any change.

Q. Do you know that the local roads in Iowa have all along been very greatly complaining of the Board being altogether to low?

A. I do not know as that is all confined to local roads.

Q. I am asking you in regard to local roads?

A. Yes, sir; I have heard those complaints.

Q. And don't you know that the through roads formerly allowed to the local roads a very large per cent. for carriage of freight originating on the local roads destined out of the state?

A. I have heard that.

Q. You know that as well as you know most of the other information that you have been giving us, don't you?

A. I know it by reading of it, that is all.

Q. And don't you know that the through roads have cut down that allowance to the local roads?

A. No, sir; I don't know that.

Q. You have not read about that?

A. The last I read was they threatened to do it.

Q. Don't you know the local roads have made application to the Board to increase their local rates on that account?

A. The last I knew of that was that they had determined that they would do that; I have never heard that they had actually done so.

Q. What is the date of your last information on the subject?

A. I believe about six weeks or two months ago.

Q. And you think at that time the application had not been made by the local roads?

A. I did not hear that it had been at that time.

Q. It may have been?

A. Why, it is possible.

Q. What did you hear on that subject?

A. I was up at Sioux City, talking with some railroad man up there, and he said he understood the local roads were going to make application.

Q. That is the extent of your information, is it?

A. I read something in the newspaper to the same effect.

Q. And that is the extent of your information?

A. Yes, sir.

Q. I understand you to say that the rate heretofore charged by the railroads for the transportation of sugar from San Francisco to Omaha is a very low rate?

A. Why, I considered it so, for the distance it came.

Q. Well, it is, in point of fact, is it not?

A. Yes, sir; I think so.

Q. And if the market price, in Omaha, of that sugar were increased it would be perfectly reasonable for the railroad companies to increase their rates, would it not?

A. They probably would, and I could not say as to the reasonableness of it.

Q. They would be perfectly justified in putting those rates up, having regard to the rates now being very low?

A. They would have a right to charge a reasonable rate from the Pacific Coast to the points in Nebraska for carriage of that sugar.

Q. That would be above the rate they now charge, providing the San Francisco sugar could find a market here, is not that so?

A. I would not say as to that, Mr. Woolworth.

Q. Why, you are an expert and know all about these things, why cannot you give us a statement on that subject?

A. Because I do not know anything about that part of it.

Q. The long and short of all you have said about the rates on sugar is this, is it not, that unless the railroads give to San Francisco sugar a very low rate it cannot be sold in the Omaha market in competition with New York and New Orleans sugar?

A. That is the way I figured it out; yes, sir.

Q. That is the fact, is it not, Mr. Dilworth?

A. I think that is the fact; they have got to meet the water transportion on the Mississippi River from New Orleans and a short route, short transportation, in order for Mr. Spreckles and his California sugar, or Island sugar, to be put on the market here in competition with sugar here.

By Mr. Webster:

Q. Is not that a mere question of the railroad help-

ing out Spreckles instead of helping out the consumers of sugar who live in Omaha?

A. That follows as a matter of fact.

By Mr. Woolworth:

Q. Mr. Dilworth, could Spreckles or anybody else sell San Francisco sugar in Omaha, in the Omaha market, 15 cents a barrel above the market price?

A. I don't believe they could.

Q. They could not even sell it five cents above the market price, could they?

A. Well, I do not know; you are getting me down as an expert on sugar, and I don't know anything about it.

Q. The sugar from the west can only be sold on this market at the market price, can it?

A. That is all.

Q. The whole case is the case of the railroad companies giving that sugar an opportunity for sale on the Omaha market?

A. Yes, sir; it gives Mr. Spreckles a chance to compete with other sugar manufacturers in the Omaha market.

Q. And if the railroad company were to put up the rate one cent, or a fraction of a cent a hundred pounds, it would shut the California sugar out, would it not?

A. Yes, sir; I believe they would have to sell the sugar at the same price here to the Omaha merchant, that the Omaha merchant could get it anywhere else.

Q. Well, don't the consumer at Omaha, or the buyer

on the Omaha market, get the benefit of Spreckles being in the trade and getting his product on this market?

A. I don't know as they reap any benefit from that.

Q. Supposing Spreckles were out of the case entirely?

A. I don't think it would cut any figure whatever.

Q. You don't think the New York or New Orleans sugar would go up here a cent?

A. No, sir; I don't think it would.

Q. Then Spreckles being in this market and the competition arising from that fact does not regulate the price at all?

A. I don't believe it does; I believe it is more a concession to Mr. Spreckles and his sugar than it is to anyone else, and for the purpose of getting business.

Q. You think it is done out of charity on the part of the railroads to Spreckles, do you?

A. And themselves, yes, sir.

Q. That is not my question. You think it is largely charity to Spreckles?

A. I think it is about even.

Q. Then they are doing this business, you think as an act of charity, do you?

A. Charity for themselves, yes, sir; charity commences at home, I understand.

Q. You think then when the railroads put the freight on sugar from San Francisco down, it is an act of charity to the railroad companies?

A. It was for the purpose of getting business that they could not otherwise get.

Q. And that, after all, is one illustration of the great principle of making rates on railroads, is it not?

A. That is one of the great principles that the railroad people use in making rates.

Q. And if they did not do that, they could not do business in a great many cases, could they?

A. They could not occupy territory that they do business with now, that is true.

Q. And they would not have any business in that territory?

A. In that particular territory there would certainly be lines of business in which they could not do any business.

Q. Calling your attention to Exhibit "A", attached to the answer in the case of Higginson v. The Chicago, Burlington & Quincy Railroad Company et al., state where you got the information that is set forth in that exhibit?

A. If you will tell me what the exhibit is.

Q. It appears to be a statement showing the terminals of lines operated by the Chicago, Burlington & Quincy Railroad Company in Nebraska?

A. I got that from their report to the Board of Transportation.

Q. For what year?

A. 1892, I believe.

Q. Are you able to state the cost of any one of these railroads, originally, to the company?

A. No, sir.

Q. Have you any source of information on that subject?

A. Except as to articles of consolidation on file in the Secretary of State's office, which might give the cost of some of the roads, but not all of them; some of those roads are operated under a lease.

Q. Take the Missouri River Railroad in Nebraska, running from Plattsmouth to Kearney, 191.61 miles, have you any means of knowing what the construction of that road cost up to the time that it was opened for traffic?

A. No, sir; I have not.

Q. Or how much has been expended upon the road from that time to this in improving it?

By Mr. Webster: The defendants object to this as not being cross-examination of this witness; he has not been examined at all as to cost of construction, improvements or equipments.

A. I think it might be possible to figure out what they had expended in improvements of the road.

Q. Where would you go for that information?

A. "Poor's Railroad Manual."

Q. That is the same manual you spoke of on a former occasion, is it not?

A. Yes, sir; that is, I would take their manual up to the time there was a Board of Transportation established in this state, and they made their reports to the Board; before that I would have to go back to "Poor's Manual."

Q. The same is true of the Republican Valley Railroad, is it not?

A. The same would be true of all the railroads in the state.

Q. Not only the Burlington System, but of The Union Pacific System, and all the other roads?

A. Yes, sir.

Q. Now, I call your attention to Exhibit "B", which purports to be a statement showing amount of capital stock of Chicago, Burlington & Quincy Railroad Company, from 1857 to 1892, inclusive, state the sources of information from which you made up that exhibit?

A. "Poor's Manual", except, possibly, as to the last two years; I think I took that from the report to the Board.

Q. Calling your attention to the year 1892, will you state whether or not, after the dividend was made there was a surplus of net earnings reserved by the company in its treasury?

A. I do not know; I cannot answer that without investigation.

Q. How was it for the year 1891?

A. I cannot answer any of those.

Q. Calling your attention now to Exhibit "B", being a table showing date and rate per cent. of dividends paid in cash by the Chicago, Burlington & Quincy, from what sources of information did you make up that exhibit?

A. From "Poor's."

Q. "Poor's Manual?"

A. Yes, sir.

Q. "Poor's Manual" is an annual publication, is it not?

A. Yes, sir.

Q. The publication of what year did you consult for the purpose of extracting this information?

A. There is no one book that will contain all of the information; I had to take the books for different years; there will be one book probably go back four or five years and give the capital stock and dividends and things of that kind, and then you will have to go back further to get another period further back.

Q. How many years did you consult in making up these two exhibits "B" and "C"?

A. From 1872 to 1892, and along in the middle of the series you may find a book that will contain nearly all the information that you want, a table there giving nearly all the information; in some instances I have struck one volume that would contain information that would extend over quite a number of years.

Q. What you have stated with reference to these two Exhibits "B" and Exhibit "C", is true also of the Exhibits "B" and "C" attached to the answer of Ames v. The Union Pacific Railway Company, is it?

A. I don't know whether those exhibits are left the same way or not, Judge, but they are true as to same exhibits attached to the other answer.

Q. And the same is true as to the answers in the other cases, is it?

A. Yes, sir.

Q. Are you able to add to what you have formerly stated anything with reference to the character of Poor's

Manual, whether it is an official document or publication, or whether it is a private affair?

A. I cannot add anything further than what I did before.

Q. And when you state that this matter set forth in the answers or in the exhibits attached to the answers is true to the best of your knowledge and belief, you mean to the best of your knowledge and belief derived from this publication, Poor's Manual?

A. From the best sources that I can obtain, and those are my sources of information.

Q. Calling your attention to the statements in the fifth paragraph in the case of Higginson v. the Chicago, Burlington & Quincy Railroad Company, state the source of your information upon the matters set forth in that paragraph?

A. I cannot recollect where I got my information from in regard to that.

Q. Do you know whether those dividends were made upon accumulations of property or money by the company in its operations?

A. I do not know anything about that; and I can not tell exactly where I got that from.

Q. 'Vell, those dividends of stock for aught you know may have been made upon earnings or increase of value of property, may they not?

A. They may have, I do not know anything about that, Judge.

Q. And if so, they would be legitimate stock dividends, would they not?

A. That would be for the Court to determine, Judge, I can not answer that.

Q. Well, Mr. Dilworth, you are an expert on railroad operations, supposing it turned out that the railroad company in any one year, after making a fair dividend, had left a reserve fund, and instead of dividing that fund among the stockholders, took it and used it for the purpose of new construction, or other legitimate purposes, would not it be perfectly legitimate for the company to issue stock to its stockholders to cover the sums so expended instead of dividing it among the stockholders?

A. Well, you are getting at the question now as to what the railroad should be allowed to earn. I maintain that the true principle of railroad construction and railroad operation is that they should be allowed to earn a reasonable rate, and nothing above that, and they should not be allowed to earn enough off of one road to construct another one off of the surplus earnings after paying dividends on stock and bonds.

Q. What do you think is a reasonable profit?

A. A reasonable return for what the road is worth.

Q. What is that reasonable return?

A. A fair rate of interest.

Q. The same rate that is allowed on other capital?

A. Yes, sir; I think they should be allowed probably the same rate of interest that a long time investment is allowed to other institutions.

Q. You do not think the company ought to be pre-

mitted to accumulate anything to meet exigencies that may arise in the future, do you?

A. Not to any large extent, no, sir.

Q. That is not a good principle in business, anyway, is it?

A. No, sir; it is not a good business principle to accumulate a large amount of money and have it tied up, at least I have not conducted my business on that plan.

Q. I have not either, but it is because I have never had the chance. Why should the national banks be required then to accumulate a surplus?

A. Well, there is something about the national banking law that I don't know anything about, and I have heard a great deal of objection to it.

Q. You have never heard any objection to the requirement of the government that every national bank, before it makes a dividend, shall accumulate a certain suplus fund?

A. I do not know; it seems to me I have heard every objection that might be made against them.

Q. You don't think that would be a very good objection, do you?

A. I don't know anything about the banking business; I have always been on the wrong side of the ledger at the bank, and their dividends never interested me.

RE-DIRECT EXAMINATION.

By Mr. Webster:

Q. In view of Mr. Woolworth's last question, I should like to ask one more, Mr. Dilworth; whether you think it would

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be proper for any railroad, or the Chicago, Burlington & Quincy, as an illustration, to issue $40,000,000 of stock by way of dividend stock, representing the accumulated earnings of previous years, and then insist upon the right to hereafter charge freight rates which would allow the railroad company to continue to pay a dividend on that dividend stock, and if that process is right, whether the road could not, by the same mathematical proceedings, continue to issue dividend stock until the amount of stock would amount to a couple of thousand dollars a mile, and then insist on freight rates to pay a dividend on a couple of thousand dollars a mile?

A. I do not think the theory is right to issue stock dividends on accumulated earnings; I do not believe the railroad company has a right to earn more than a reasonable compensation for the money that it has legitimately invested in railroad property.

The State Board of Transportation now offers in evidence a part of the report of Richard P. Morgan, Jr., Inspecting Engineer for the United States Pacific Railway Commission under the act of March 3, 1887, relating to the cost of reproducing the main line of The Union Pacific Railway System, said extract from the said report being found on page 4,454 of Executive Document 51, part 9 and is as follows:

Estimate of the present cost of reproducing the main line of The Union Pacific Railway System, Omaha to Ogden.

(1,038.9 Miles.)

Right of way	$ 188,000
Grading, bridging and culverts	7,672,720
Ties	1,809,575
Main track, rails, etc	5,062,443
Sidetracks, rails, etc	1,322,670
Track-laying and surfacing	623,340
Fencing	208,000
Snow-fences	250,000
Snow-sheds	124,920
Buildings	1,558,350
Telegraph line	129,862
Locomotive, passenger equipment and freight equipment	4,155,620
Fixed tools, stationary power and other tools	519,500
Engineering and contingencies, 10 per cent	2,362,500
The impact and adaptation	1,870,000
	$27,857,500

Cost per mile, $26,814 plus.

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence and hearsay.

The State Board of Transportation also offers the following table from page 4456 of said report:

Estimate of the present cost of reproducing certain roads and branch lines of The Union Pacific Railway System.

ROUTE.	LENGTH.	COST OF REPRODUCTION.	AVERAGE PER MILE.
	Miles.		
Julesburg to La Salle.....	151.1	$ 2,905,600	$19,230
Granger to Huntington.....	541.3	11,908,800	22,000*
Shoshone to Ketcham.....	69.4	1,179,500	16,995*
Pocatello to Silver Bow....	255.5	4,599,200	18,000*
Silver Bow to Butte City...	7	210,700	30,100
Silver Bow to Garrison.....	45	769,500	17,100
Stuart to Anaconda.....	14	210,000	15,000
Cheyenne & Northern.....	75	1,350,000	18,000
Laramie to Soda Lake.....	13.6	95,200	7,000
Echo & Park City Branch...	28	452,200	16,150
Omaha & Republican Valley (Valley to Maryville)....	134.2	2,422,400	18,050*
Valparaiso to Stromsburg...	53.17	790,500	14,867*
Columbus to Norfolk.....	50.4	756,000	15,000
Lost Creek to Albion.....	33.8	506,500	14,985*
Geneva to Cedar Rapids....	30.3	456,000	15,049*
Leavenworth to Lawrence..	35	526,000	15,028*
Lawrence to Carbondale (not inspected 32 miles).....			
Manhattan to Maryville....	55.1	880,500	15,980*
Salina to McPherson.....	35.1	490,400	13,971*
Solomon to Beloit.....	57.3	803,200	14,017*
Junction City to Belleville...	86.5	1,213,600	14.030
Grand Island to Ord.....	60.7	907,500	14,950*
Saint Paul to Loup City....	38.9	544,100	13.986*
Brighton to Boulder.....	27.8	476,600	17,143*
Argo Junction to Boulder...	15.1	271,800	17,999*
Denver to Fort Collins.....	88	1,583,000	17,988*
Greeley to Stout.....	35.8	601,600	16,804*
Central Branch, Union Pacific Railway.....	100	2,004,000	20,040
Total.....	2,137.07	$38,914,400	

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence and hearsay.

The State Board of Transportation also offers in evidence an extract from the report of William Calhoun, Accountant

to the same Pacific Railway Commission found on page 4827 of the same public document, relating to the stock of The Union Pacific Company, and which is as follows:'

"Another phase in the various effects produced by the consolidation of the three companies must naturally present itself to any one who will take the trouble to study the transactions which form part of the actual work of consolidation. A new way was invented of watering the stock of The Union Pacific Company. The previous pages of this report will show that the existing quantity of that fluid in the Union Pacific flooded nearly all the stock which represented the original share capital of $36,000,000. How to add $14,000,000 more, which, as a matter of fact, was nearly all watered also, was the question. The controllers of the shares in the three companies constituted a ring, which managed the business with the highest skill and cunning. The Kansas Pacific Company, up to the date of the consolidation, was unable to earn any interest on its capital, and the value of the Denver Pacific shares had little or no foundation, inasmuch as that concern was in the hands of receivers. The Union Pacific was precluded by act of Congress from further issues of shares without the Federal sanction. But it was found that the several aided companies could not only consolidate their watered capital, but had the right, after consolidation, to increase it "to any amount which should not exceed the actual cost of the roads to be consolidated." According to the opinion of Mr. John F. Dillon and Mr. Sidney Bartlett the consolidated company succeeded to the right of issuing

new stock to the extent of the difference between the stock already issued and the total cost of the property. Mr. Dillon illustrated this opinion by assuming "that (if) the Kansas Pacific road actually cost $30,000,000, and that only $10,000,000 of stock have been issued, the present company (The Union Pacific Railway), succeeding to all the rights of the Kansas Pacific, may make a valid issue of stock in respect of the difference. In other words, the sixteenth section of the act of 1864 is construed to mean that the Kansas Pacific Company could have issued $20,000,000 more than the existing share capital. But, as a matter of fact, this difference of cost was represented by bonds, and to issue shares for this difference was to water the stock to the extent of such difference. After consolidation, as we have seen, the share capital was fixed at $61,000,000, and the $10,000,000 increase was, no doubt, actually paid in money. So far, then, this $10,000,000 does not come under the imputation of being water, but the purpose to which it was applied were required by the act of 1873 to be lawful purposes. Whether the $10,000,000 were so applied would, therefore, naturally come up as a question to be settled by the Commission. The bulk of the $10,000,000, as before stated, was raised in New York, and passed through the hands of Mr. Ham, assistant treasurer. A study of his account will show whether the portion of the $10,000,000 which he received was spent in "funding or securing debt now existing, or the renewal thereof."

1128 Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence and hearsay.

The State Board of Transportation also offers in evidence an extract from the report of Alexander J. M. Dowell, accountant, found on page 5264 of the same public document:

"The expenditures of The Union Pacific Company from 1877 to 1886 for the construction of auxiliary roads is, as shown by the books of the operating department, $38,286,-057.04. (See Exhibit E.)

Objected to by Mr. Woolworth as immaterial, irrelevant, not the best evidence and hearsay.

By Mr. Woolworth:

Reserving the objection heretofore made to the offer, the plaintiffs insist that the whole of Mr. Morgan's estimate be incorporated into the record and for that purpose asks that the examiner incorporate into the record all of the matter in Mr. Morgan's report, beginning on page 4450 and extending to the line on page 4454 reading "cost per mile $36,728 plus. (The following is a copy of the portion of Mr. Morgan's report referred to by Mr. Woolworth, beginning on page 4450 and extending to the line on page 4454 reading "Cost per mile $36,728 plus".)

ESTIMATE OF THE "FAIR, PRESENT ACTUAL VALUE" OF THE UNION PACIFIC RAILWAY AND ITS BRANCHES.

The following letters furnish an appropriate introduction to the consideration of this important question:

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DENVER, COLO., August 22, 1887.

DEAR SIR:—I am instructed by the United States Pacific Railway Commission to include in my report an estimate of "the fair, present actual value" of The Union Pacific Railway and its branches. The principal basis for determining the fair, present actual value of those roads is their productive capacity in excess of operating expenses and their complete maintenance.

There should be added to or deducted from the result so obtained, a reasonable estimate to represent their probable future productive capacity. In addition to my personal examination of the roads, their condition and equipment, and also the character of the tributary country, I have as data the directors' reports to the stockholders for the past ten years.

What I desire further is to avail myself of such considerations other than those contained in your reports, if there are any, which the thorough knowledge of yourself and associates of the country traversed by The Union Pacific System and others may enable you to suggest to aid me in the preparation of my estimate. If you should be kind enough to provide me with such information or suggestions as you may be able, favorable and unfavorable; as to the probable future productive capacity of the lines, I would like it in such form that I can make it an integral part of my report to the Commission. Be kind enough to address me at my home, Dwight, Ill., and oblige.

Very respectfully yours,

RICHARD P. MORGAN, JR.,

Inspecting Engineer for the United States Pacific Railway Commission.

Hon. Chas. F. Adams,

President of The Union Pacific Railway Company,

Boston, Mass.

BOSTON, MASS., September 26, 1887.

MY DEAR SIR:—I have to acknowledge the receipt of your favor of August 22, in which you invite me to give you such information or suggestions as I may be able as to the probable future capacity of The Union Pacific System, with a view to enabling you to form an estimate of the "fair, present actual" of that system.

I know of few things more difficult than to form an estimate of the "fair, present actual value" of any railroad property. The history of the railroad system of the country has been full of surprises in this respect; and a system as complex as that of the Union Pacific is especially difficult to appraise.

The present actual value of a property may be approximately estimated on either of two grounds; first, on the cost of duplicating; and second, on its earning capacity.

I hold it quite impossible to state what would be the cost of duplicating to-day the original Union Pacific. While everything which enters into the construction of a railroad has during the last twenty years diminished in value, the cost of procuring right of way and terminal facilities has increased almost indefinitely. When the Union Pacific was built through Kansas City and Omaha, the ground now occupied by its right of way and terminal facilities had little market value.

To-day a similar road could not be constructed through Omaha or Kansas City enjoying like terminal facilities at any measureable cost. An example of the increase in the value of railroad terminal facilities is afforded in the case of the Chicago, Burlington & Quincy in Chicago.

When that company obtained the properties which it now has in Chicago the cost was probably represented by a few thousands, or perhaps hundred thousands, of dollars. Those terminal facilities are now said to be worth $30,000,000.

It is the same in less degree with the Union Pacific. At a rough estimate, I should suppose that, although the cost of the material which entered into the construction of the Union Pacific is now one-half less than it was when it was put into the road, the value of its terminal grounds, stations, etc., has increased from ten to fifty fold. In round numbers the company now owns 5,000 miles of track, with shops, stations, freight grounds, yard room, sidings, etc., around which towns have grown up at all the principal points. Taking the entire system, with the equipment, shops, terminal grounds, station buildings, etc., as they stand to-day, it might cost in the neighborhood of $40,000 a mile to duplicate it; or about $200,000,000 in round numbers.

If an estimate of "the fair, present actual value" is to be based upon the earning capacity of the property, which I presume is the correct basis, judging by the returns of the present and the last three years, the Union Pacific earns net about $10,000,000 per annum. I would by no means undertake to even venture a guess as to the future. On the one

side the through or Pacific Coast business which the Union Pacific was originally built to do, has during the last three years much diminished in value. Nevertheless, it would now, as an element in our traffic returns, seemed to have reached as low a point as it is likely to reach. The receipts from through business may, therefore, be regarded as having touched "hard pan."

On the other hand, the receipts from local traffic have steadily increased every year in the company's history, and are still increasing. I see no reason to suppose that they will not be larger in the future than they now are. The number and extent of competing roads striving for their share of this business is also increasing. The country served by the Union Pacific and its branches is, as a whole, a country of light business, admitting only of a slow and limited development. I should not, therefore, be willing to venture a prediction to the effect that the receipts from the local traffic of the Union Pacific and its branches during the coming years are likely to be more profitable than during more recent years; but it may be so, for in railroad as in other matters, it is the unexpected which is apt to occur. Unless the policy pursued by the government towards the company undergoes a change this traffic must diminish rather than increase. Supposing, however, that the reductions which will be made from earnings offset the natural increase of traffic, the conclusion may be reached that the net earning capacity of the property during the next few years (which alone it is safe to consider) will be about what it has been

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during the last few years, to wit, in the neighborhood of about $10,000,000 per annum.

The amount above named would represent a return of 5 per cent. upon what I have estimated to be the cost of reproducing the property in its present condition of development. In answer to your query, therefore, I should report $200,000,000 as the "fair, present actual value" of the Union Pacific and its branches.

I have the honor to be, etc.,

CHARLES F. ADAMS,
President.

Richard P. Morgan, Esq.,
Inspecting Engineer for the United States
Pacific Railway Commission, Dwight, Ill.

THE EARNING CAPACITY OF THE SYSTEM.

There has been a steady decline, as shown by the annual reports of the directors of the company, in the net earnings of the system since 1882. This has taken place in the face of effective increased mileage and the considerable temporary earnings incident to the construction of that increase in mileage, and also those arising from the construction of competitive lines.

The maintenance account does not include the decay of the ties on the roads of recent construction, which have nevertheless been decaying, and the expense of renewals as steadily accumulating as though the routine of renewals had been reached, as on older roads, and included in the annual expense on that account.

In regard to the advantages anticipated from the construction of additional branch lines, there may be some branches and extensions justified, but, as a general policy, and especially west of the one hundredth meridian, it would be a dangerous one, for the mere construction of a railroad cannot make a productive country.

In the region referred to, embraced by this system, there may possibly be surprising developments in the mining of precious metals which would justify extensions or new branches after critical investigations, but the vast schemes now in full blast of "prospecting" that country by constructing many railroads through it is likely to come to a bitter end; therefore should be very cautiously participated in even as a defensive policy.

A line drawn through Nebraska and Kansas on the one hundredth meridian, and varying somewhat at the north and south of those states to conform to the range of the Rocky Mountains, may be fairly regarded as about the limiting line at which the analogous conditions of climate and soil extending thence to the Atlantic seaboard cease.

Turning west nearly an equal distance, to the Sierra Nevada Mountains, there is a corresponding expanse of territory, but in that area thus defined the analogy between those sections of the country is mainly found.

It has comparatively a very limited pastoral capacity and its agricultural capacity is very far less, indeed; though it has been said that this country is changing in its conditions and that the rain-fall is increasing each year. It

would seem safer, in considering that question in connection with the construction and operation of railroads and their earnings, to have faith in the permanency of the Rocky and Sierra Nevada Mountains and their work, rather than the opinions of interested parties.

The average annual net earnings of The Union Pacific Railway Company from 1882 to December 31, 1886, as shown by the report of the directors for 1886 (p. 104), on 4,607.4 miles have been $9,441,907.29, or a sum equal to 5 per cent. per annum on $188,838,145.80.

There has been an average annual decrease in the net earnings of the company from 1882 to 1886, inclusive, amounting to $1,115,142.86.

The net earnings of the company for 1886 were $7,522,-707.02, a sum equal to 5 per cent. per annum on $150,454,-140.40.

The average annual net earnings of The Union Pacific System from 1882 to December 31, 1886, four years, was $1,298,294.65.

The net earnings of the system for 1886 were $8,995,-178.71, a sum equal to 5 per cent. on $179,903,574.20.

As before suggested, there is a percentage of wear and decay of the material used in the recently constructed branch lines and extensions to repair which will require a large expenditure.

This depreciation, during a period of six years, has doubtless aggregated fully $1,000,000, an average of $166,666 annually, and should be estimated as a part of the

current cost of maintenance, even though it was not required to be made, and has not appeared in the maintenance account concurrently with the decay and wear.

The earnings of the system, as suggested, have included charges for the transportation of the persons employed and material used in the construction of the branch lines and extensions, and to some extent for rival lines; therefore, when that work ceases the considerable revenue from those sources will also cease. This suspended expense of maintenance and the temporary earnings arising from the constructions of new roads are factors of importance, the one that increases the cost of maintenance being certain and continuous and that which increases the earnings uncertain and temporary.

The Pacific Coast business, for which the main line of the Union Pacific road was built, has been largely diverted. The principal cause of this diversion still exists, and its capability to control traffic is rapidly increasing. The Union Pacific Company can exercise but slight influence over the sources of that business, therefore it must be expected that the lessee of the Central Pacific road (the Southern Pacific Company) will engage in its interests all possible means to secure as complete diversion of traffic as can be from the Union Pacific road, so long as the lessee has greater interest in other lines. The lessee practically owns and controls a most comprehensive system of railroads in California, which extends north to Portland, Oregon, and south to Los Angeles and San Diego, thus touching completely the coast of California and part of Oregon. Through

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the port of San Francisco and other ports on that coast the roads of the lessee have easy communications with the western world and Alaska. For these reasons it seems clear that the principal reliance for maintaining the Pacific Coast business at its present value to The Union Pacific Railroad Company must be the Oregon Short Line, which reaches ocean-going vessels at Portland. In addition to the stringent interests and power of the lessee several new lines of railway are being pushed through to the Pacific Coast, and they will demand and receive their share of the through business, because their exigencies are likely to be great in addition to their natural rights.

The recent overbuilding of railroads through the pastoral and to mining regions should not be lost sight of, for that will doubtless affect adversely in a measurable degree the earnings of The Union Pacific System; hence, again, the future local earnings may be less than they now are.

The sources of revenue on the Denver, South Park and Pacific lines do not seem to promise well. Between Denver and Gunnison City many towns, mines and smelters have been abandoned; the interests and population at Gunnison City have very greatly diminished, while few localities manifest growth and activity.

The important fact that throughout the really practicable agricultural territory embraced by the branch lines there has been a disastrous failure of crops, and that in much of this territory there is liability to failure, justify anticipations of decrease rather than an increase in the earnings of the system.

The foregoing considerations and facts indicate that the actual net earning of the system, including the new branches under construction, for 1888 to 1890, inclusive, excepting from the account the earnings that may arise temporarily from the construction of those new lines, will not exceed $7,500,000 per annum, a sum equal to five per cent. per annum on $150,000,000. By actual net earnings is meant the balance remaining after deducting from the gross earnings the cost of operating the road, the complete maintenance of the road, its structures, its equipments, and the payment of taxes.

It should be added that if the interests of the persons who control the affairs of the Central Pacific Railroad Company come into harmony with those of The Union Pacific Company, the net earnings of The Union Pacific System would be considerably greater than estimated.

ESTIMATE OF THE PRESENT COST OF REPRODUCING THE UNION PACIFIC RAILWAY AND ITS BRANCHES, AND THE CENTRAL BRANCH OF THE UNION PACIFIC RAILROAD AND ITS BRANCHES, AND THEIR EQUIPMENTS.

In placing an estimate upon the fair present actual value of important terminal properties and their facilities they should not be regarded as monopolies, but they are fairly entitled, in addition to the commercial value of the property, to any practical value actually arising from their eligibility of situation for the transaction of the local business, and that which they give to and receive from related lines.

Instances are quite common, indeed, it is the rule in the west, that extensive and important terminal properties have

increased in commercial value as rapidly as the marvelous growth of the cities in which they are located. In some instances the cost of an actual equivalent to such grounds and facilities would be very great, but in connection with the consideration of these cases it should be borne in mind that rival roads, costing much less and of less value as a machine, entering the suburbs of a city, though their terminal facilities are inferior, nevertheless by reason of their moderate actual cost that company could establish rates remunerative to itself which would measurably govern the value of other terminal facilities, if not the commercial value of their grounds.

It is difficult to reach conclusions entirely satisfactory to such values, but it seems clear that extreme estimates either for or against the value of important terminal facilities are untenable.

Estimate of the present cost of reproducing the main line of The Union Pacific Railway System—Omaha to Ogden.

(1,038.9 miles.)

Right of way	$ 188,000
Grading, bridging and culverts	7,672,720
Ties	1,809,575
Main track, rails, etc	5,062,443
Side tracks, rails, etc	1,322,670
Track-laying and surfacing	623,340
Fencing	208,000
Snow-fences	250,000
Snow-sheds	124,920
Buildings	1,558,350
Telegraph line	129,862
Locomotives, passenger equipment and freight equipment	4,155,620

Fixed tools, stationary power and other tools...		519,500
Engineering and contingencies, 10 per cent.....		2,362,500
The impact and adaptation.....		1,870,000
		$27,857,500

Cost per mile, $26,814 plus.

Terminal properties and their facilities:

Omaha.....	$10,000,000	
Ogden.....	300,000	
Total.....		10,300,000
		$38,157,500

Cost per mile, $36,728 plus.

By Mr. Woolworth:

The plaintiffs further insist that the brief extracts offered in evidence by the Board of Transportation from the reports of Calhoun and Dowell, detached as they are from other statements and explanations in the reports, standing by themselves are misleading, and even if the same were competent evidence in these cases, the parts offered should be rejected for that reason.

If you will put the whole of these reports in, perhaps I will waive my objections.

By Mr. Webster:

The counsel for the State Board of Transportation states that if the objection is in fact withdrawn that counsel for defendant will produce the whole report upon the hearing for either side to make such use thereof as they may deem to their respective interests.

The State Board of Transportation next offers in evidence an extract from the message of the President of the United States transmitting to the Senate and House of Repre-

sentatives the report of the Pacific Railway Commission and which message is under date of January 17, 1888 and which message and report was ordered to be printed by the Senate, and the extract so offered in evidence is as follows:

"It will be seen that there was available for the building of each mile of these roads $16,000 of United States bonds, due in thirty years, with 6 per cent. interest, $16,000 in bonds of the companies secured by a first mortgage on all their property, and ten sections of government land, to say nothing of the stock of the companies.

When the relations created between the government and these companies by the legislation referred to is considered, it is astonishing that the claim should be made that the directors of these roads owed no duty except to themselves in their construction; that they need regard no interests but their own, and that they were justified in contracting with themselves and making such bargains as resulted in conveying to their pockets all the assets of the companies. As a lienor the government was vitally interested in the amount of the mortgage to which its security had been subordinated; and it had the right to insist that none of the bonds secured by this prior mortgage should be issued fraudulently or for the purpose of division among these stockholders without consideration.

The doctrine of complete independence on the part of the directors of these companies, and their freedom from any obligation to care for other interests than their own in the construction of these roads, seems to have developed the

natural consequences of its application, portrayed as follows in the majority report of the Commissioners:

The result is that those who have controlled and directed the construction and development of these companies have become possessed of their surplus assets, through issue of bonds, stocks and payment of dividends voted by themselves, while the great creditor, the United States, finds itself substantially without adequate security for the repayment of its loans.

Objected to by Mr. Woolworth as immaterial, irrelevant, hearsay, and not the best evidence.

The State Board of Transportation offers in evidence the following extracts from the report of the Commission so transmitted to Congress by the President, to wit:

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"The total funded debt of The Union Pacific Railway Company on the 31st of December, 1886, exclusive of the obligations to the United States, was $81,969,127.50. Of this amount $33,532,000 are now prior to the statutory lien of the United States. The balance of this funded debt, amounting to $48,437,127.50, is described as follows:

"The land grant bonds are secured by a mortgage of the public lands granted to The Union Pacific Railroad Company.

"The amount of these bonds outstanding on December 31, 1886, was $2,036,000. It appears from the accounts of Frederick L. Ames, as trustee of this mortgage, that the proceeds of these lands will suffice to pay the outstanding bonds within two years, and will leave a surplus after all

the assets shall have been realized of about $16,000,000. (Vol. 2, pages 945 and 946)."

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"The Sioux City & Pacific Railroad is a well constructed single track road, extending from Sioux City, Iowa, to Fremont, Nebraska, its length being 101.58 miles. At California Junction a short branch extends to Missouri Valley Junction, a distance of 5.84 miles, at which point it connects with the Chicago & Northwestern Railway.

"The average net earnings for the past three years, 1884, 1885 and 1886, were $237,362."

Pages 50, 51 and 52.

STATEMENT OF THE FINANCIAL OPERATIONS OF THE UNION PACIFIC RAILROAD AND RAILWAY COMPANY.

In order to avoid useless repetitions of matters that have been heretofore thoroughly investigated, and as to which the evidence has already been placed before Congress, the Commission accepts as its conclusions the results reached by the Wilson committee as applicable to the construction of The Union Pacific Railroad between Omaha and Ogden, a distance of 1,029.38 miles. These conclusions have been corroborated by our examinations. We refer to the reports of Mr. Calhoun (Vol. 8), and to the evidence of G. M. Dodge (Vol. 7, page 3790) and of Peter A. Dey (Vol. 7, page 1425).

It will be remembered that the proof taken by the Wilson committee established substantially the following propositions:

First. That The Union Pacific Railroad, from Omaha to Ogden, was constructed under three contracts, known as the "Hoxie contract," the "Ames contract," and the "Davis contract."

Second. That through the intervention of assignments made by the holders of these contracts to trustees, and through the intervention of a construction company known as the "Credit Mobilier of America," the profits derived from these contracts were secured to the officers and promoters of The Union Pacific Railroad itself. The persons who received these profits determined the amount thereof by their own votes.

Third. The result of these three contracts was as follows:

Cost to railroad company—		
Hoxie contract		$12,974,416.24
Ames contract		57,140,102.94
Davis contract		23,431,768.10
Total		$93,546,287.28
Cost to contractors—		
Hoxie contract	$ 7,806,183.33	
Ames contract	27,285,141.99	
Davis contract	15,629,633.62	
		50,720,958.94
		$42,825,328.34
To this should be added the amount paid Credit Mobilier on account of 58 miles		1,104,000.00
Total profit on construction		$43,929,328.34

Fourth. The actual cost of construction under these three contracts was substantially equivalent to the proceeds

of the first mortgage bonds of the company and of the government bonds, as shown by the following table:

First mortgage bonds issued	$27,213,000.00
Sold at a discount of	3,494,991.23
Net proceeds	23,718,008.77
Government bonds issued	27,236,512.00
Sold at a discount of	91,348.72
Net proceeds	27,145,163.28
Aggregate net proceeds of both claases	50,363,172.05
Cost of whole road to the contractors	50,720,953.94
Difference between proceeds of bonds and cost	142,213.11

Fifth. That the actual profits realized from the three contracts, after reducing the bonds issued to their cash value and charging the stock issued at 30 cents on the dollar, were $23,366,319.81. These profits are stated as follows:

Ames and Davis contracts—

Bonds (cash value)	$11,310,900.00
Twenty-four million stock, at 30	7,200,000.00
Cash	2,346,000.00
	$20,856,900.00

The profits on the Hoxie contract, as before stated, were $6,272,232.71.

Treating all of this as stock, except $1,125,000 of first mortgage bonds, divided as hereinafter stated, the profits, cash values, on this would be as follows:

$1,125,000 first mortgage bonds, at 85	$ 965,250.00
$5,147,232.71 stock at 30	1,544,169.81
Total cash profit	$23,366,319.81

Sixth. The benefits arising from the Hoxie contract were secured by an assignment to Thomas C. Durant, Cor-

nelius S. Bushnell, Charles A. Lambard and H. S. McComb (all directors of The Union Pacific Railroad Company), and Gray.

The profits arising from the Ames contract were secured to the stockholders of the Credit Mobilier, and the contract itself was assigned, in trust, to Thomas C. Durant, Oliver Ames, John B. Alley, Sidney Dillon, Cornelius S. Bushnell, Henry S. McComb and Benjamin E. Bates, all of whom were stockholders in The Union Pacific Railroad Company and in the Credit Mobilier.

The profits arising from the Davis contract were secured to the Credit Mobilier stockholders by an assignment to the same trustees.

The conclusions above referred to are entirely corroborated by our examinations."

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"The three years following the consolidation were years of great business activity, and the receipts of the Union Pacific Railway for 1880, 1881, 1882 and 1883 were largely increased.

The gross receipts for these four years were.....		$89,273,322.32
The operating expenses for the same period.....		43,438,335.89
Leaving as net earnings..		$45,834,986.43
The interest and other charges, less miscellaneous receipts, were	$21,936,417.09	
Dividends paid during the same years.....	15,643,448.13	
Total		$37,579,865.22

Leaving to accumulate as surplus.....	8,255,121.21

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From the 1st of January, 1884 to the 1st of January, 1887, the gross earnings of the Union Pacific Railway have been.....	$53,232,134.31
The operating expenses.....	28,433,866.45
Net earnings.....	24,798,267.86
Fixed charges and miscellaneous expenses	20,612,439.88
Payment to the United States.....	3,179,196.34
Dividend paid April, 1884.....	1,065,197.00

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"The Fremont, Elkhorn & Missouri Valley Railroad Company belongs to the Chicago & Northwestern Railway Company; and at about the time it acquired the control of the stock of the Sioux City & Pacific Railroad Company the lease of the Elkhorn Company to the Sioux City Company was terminated. The Fremont, Elkhorn & Missouri Valley Railroad Company has been extended in a westerly direction, by the Chicago & Northwestern Railway Company, until it has reached the vicinity of Fort Fetterman, Wyoming Territory.

The operations of this company have grown in magnitude, and its net earnings in amount. The effect of the increase of these earnings is reflected in the figures for the year 1884. These earnings in 1883 were $83,275.48, and in 1884 were $275,469.40. The lease was then terminated by the Chicago & Northwestern Railway Company, which controlled both corporations, and an arrangement was made by which the Fremont, Elkhorn & Missouri Valley Railroad Company

pays 3 per cent. on an appraised value of the Sioux City & Pacific Railroad for the use of that portion of the Sioux City & Pacific Railroad over which its trains pass. The value has been appraised at $11,000 per mile.

The net earnings of the Sioux City & Pacific for 1885 and 1886 are as follows:

1885	$216,043.97
1886	335,521.59
Total	$551,565.56
Average for the two years	$275,782.78

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"The capital stock of The Union Pacific Railway now outstanding is $60,867,500. On this amount not more than 16 per cent. has been received in cash."

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"The evidence established the frequent use by the officials of The Union Pacific Railway Company of money and passes for the purpose of influencing legislation. The vouchers relating to these expenses are, in many cases, insufficient. In all cases examined by the Commission, the evidence, while not disproving the purpose to which the moneys had been applied, had been sufficient to supply the defects of the vouchers. The witnesses called with reference to these transactions have established the fact that the general practice of the company in Kansas, Nebraska, and Colorado, was to secure a full representation at the capitals of those states respectively during the sessions of the legislature. There is no evidence whatever of actual bribery.

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The moneys in question were expended in paying lawyers and lobbyists for appearing before committees, and using the various weapons of the lobby in the form of argument, persuasion, and entertainment, for the purpose of preventing the passage of measures which were hostile to the interests of the railroad."

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"In the judgment of the Commission the operation of the bond-aided roads, as far as train service, accommodations and facilities are concerned, has been such as to give satisfaction to the communities, with the exceptions enumerated. Many complaints were made to the Commission in different towns in Kansas and Nebraska, at Denver, Fort Collins, Cheyenne, Laramie, Leadville, Ogden and Salt Lake City, of partiality and preferences extended by The Union Pacific Railway Company to those whom it desired to favor, and that the companies so adjusted their freight rates as to drive out of business those who had not their favor. Complaint was also made that The Union Pacific Railway Company had monopolized the stone business at the Stout quarries, and the coal business at the Marshall mines."

In addition to these liberal gifts by Congress, some of the states and many counties and public bodies also made large donations in lands and bonds to some of the companies.

AID FROM ALL SOURCES.	Principal and interest advances paid and to be paid by United States.	Value of land grant—sold and unsold.	AID FROM OTHER SOURCES.
Union Pacific } Kansas Pacific }	$92,844,290.94	$44,911,637.77	$250,000,00
Central Branch	4,426,608.26	*1,000,000.00	
Sioux City & Pacific	4,509,255.89	239,364.60	265,686.00
Central Pacific } Western Pacific }	77,104,604.41	19,832,581.24	2,555,191.24
Total	$178,884,759.50	$65,983,583.61	$3,070,877.24

	Aid exclusive of use by companies until maturity of annual interest payment by government	Use until maturity in 1895, 1899 of annual interest payments on basis of 6 per cent.	TOTAL AID.
Union Pacific } Kansas Pacific }	$138,005,928.71	$103,690,859.36	$241,696,788.07
Central Branch	5,426,608.26	4,946,564.96	10,373,173.22
Sioux City & Pacific	5,014,306.49	5,034,119.16	10,048,425.65
Central Pacific } Western Pacific }	99,492,376.89	86,118,706.71	185,611,083.60
Total	$247,039,220.35	$199,790,250.19	$447,729,470.54

*Estimated.

BONDS.

COMPANY.	Mileage.	Principal of Subsidy Bonds.	Interest Accrued and to Accrue to Date of Maturity.	Principal and Interest Paid and to be Paid by the United States.
Union Pacific	$1,038.68	$27,236,512	$59,304,778.94	$ 92,844,290.94
Kansas Pacific	393.94	6,303,000		
Central Branch	100.00	1,600,000	2,826,608.26	4,426,608.26
Sioux City & Pacific	101.77	1,628,320	2,880,935.89	4,509,255.89
Central Pacific	737.50	25,885,120	49,248,924.41	77,104,604.41
Western Pacific	123.16	1,970,560		
Total	$2,495.05	$64,623,512	$114,261,247.50	$178,884,759.50

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"THE LAND GRANTS.

	Union Pacific.	Kansas Pacific.	Central Branch.	Sioux City & Pacific
Acres granted	11,309,844.00	6,000,000.00	222,560.00	43,336.00
Amount realized on land sales to Dec. 31, 1886	$19,090,672.42	$11,816,695.35	*$1,000,000.00	$239,364.60
Value of lands unsold	2,395,507.00	11,608,763.00	.....	.....
Acres patented	2,616,178.00	963,714.00	218,250.00	41,398.00
Selections pending	531,504.00	824,538.00	4,310.00	1,938.00
Acres sold	7,986,346.41	3,055,465.00	222,560.00	43,336.000
Acres unsold	3,175,507.00	3,883,700.00	.....	.....
Acres sold and unpatened	5,370,168.00	2,091,751.00	4,310.00	1,938.00
Average price per acre	$2.39	$3.86	$2.00 to $6.00	$5.52

*Estimated."

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CONSTRUCTION AND CAPITALIZATION.

"With these legal obligations and covenants resting upon them, what did these companies do? The Union Pacific Railroad Company actually received, in cash, on account of stock payments, the sum of only $400,650, while it issued stock to the amount of $36,762,300.

"The Union Pacific (1,038.68 miles) was built for $38,824,000, and the company issued bonds and stocks as follows:

First Mortgage bonds	$27,237,000
United States bonds	27,236,512
Land-grant bonds	9,224,000
Income bonds	9,355,000
Stock	36,762,300
	109,814,812
Cost of construction	38,824,000
Fictitious capital	70,990,812

One thing is evident. After allowing for discount, the road was built for less than the proceeds of the first mortgage and government bonds, which had a face value of $54,465,512, the builders taking as profit part of the proceeds of the sale of those bonds, as well as the income bonds, the land-grant bonds, and the stock, and charging up on the books of the company as cost of construction $109,814,812."

Foot of page 137 and top of page 138.

"The Wilson committee reported that large sums of money were borrowed by the corporation apparently to pro-

vide for the necessities of construction, but which were distributed in dividends among the corporators; that stock was not paid for in money; that some of the Government Directors neglected their duties and others were interested in the fraudulent transactions of the company. One of the Commissioners appointed to pass upon the condition of the road was paid $25,000 in consideration of his signing officially a report accepting as first-class a section of 120 miles of the road. The Chief Engineer, Peter A. Dey, resigned because the Hoxie contract was fixed at $50,000, though his estimates were for $30,000 per mile. His successor, General G. M. Dodge, was interested in contracts for the construction of the road as a stockholder of the Credit Mobilier. Oakes Ames, who was largely interested in the construction of the road, sold stock to members of Congress for prices much below the real value of the shares, his philosophy being that, although these particular congressmen had favored the Union Pacific road, they would take a livelier interest in its affairs if they were protecting their own property.

"The testimony taken by the Wilson committee showed that G. M. Dodge had been given, for services in procuring the passage of the act of March 3, 1871, $24,500; that C. S. Bushnell had paid to T. A. Scott, on private account, $19,000; that C. S. Bushnell had retained $82,500; that there was paid Governor John A. Dix, as a purchase by the railroad company of his stock, $50,000; that there was paid to C. Windell, for singning the report accepting a section of the road $25,000; and that an allowance was made to T. C.

Durant of $435,750.21 for expenses in passing through Congress the amendatory act of July 2, 1864.

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The Sioux City & Pacific capitalized its road (101.77 miles) in bonds and stocks, to the amount of $5,047,720, as follows:

First mortgage bonds	$1,628,000
United States bonds	1,628,320
Common stock	1,791,400
	$5,047,720
Cost of construction	2,600,000
Profit in bonds	$2,447,720

It built its line for about $2,600,000, of which $1,791,400 came from stock subscriptions and about $800,000 from the proceeds of the sale of half of its government bonds. It distributed among its stockholders, without consideration, over $2,400,000; of which $1,628,000 was in first mortgage bonds, and the remainder in government bonds. Every stockholder who paid in $40 received in return about $120 in securities and property".

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"It will be apparent from these figures that the roads were bonded and stocked on an excessive basis, the profits amounting to $172,347,115.00, going to construction companies or inside combinations, as follows:

COST AND CAPITALIZATION.

COMPANY.	MILEAGE.	COST.	Capitalization in bonds and stocks.	Amount of fictitious capital in securities upon completion of road.
Union Pacific	1,038.68	$38,824,000	$109,814,812	$70,990,812
Kansas Pacific	393.94	11,800,000	25,028,250	13,228,250
Central Branch	100.00	2,731,347	4,200,000	1,468,653
Sioux City & Pacific	101.77	2,600,000	5,047,720	2,447,720
Central Pacific	737.50	36,000,000	124,211,680	84,211,680
Western Pacific	123.16	4,000,000		
Total	2,495.05	$95,955,347	$268,302,462	$172,347,115

Foot of page 140 and top of page 141.

"THEIR RELATIONS TO THE PUBLIC.

The original purpose of Congress, as set forth in the act of July 1, 1862, in granting subsidies for the construction of the Pacific roads, was to promote the public interest, and the companies were made trustees for that purpose; but the public interest has been subordinated by these companies to the stockholding interest, upon the claim that the stockholders owned the railroads and could manage their own business in their own way. Nearly every obligation which these corporations assumed under the laws of the United States, or as common carriers, has been violated. Their management has been a national disgrace. Since the date of their inception they have been conducted upon a purely speculative basis. Their permanent prosperity has been lost sight of, while their managers greedily strove for temporary advantage. For fourteen years the Union Pacific and the Central Pacific were practically free from competition for a stretch of 1,800 miles across the continent, they were independent of many of those disturbing elements which have been pleaded in extenuation of the vicious practices of railroads in other parts of the country, and yet they injected secrecy into their affairs, inaugurated favoritism and corruption in their management, and attempted to destroy competition. They organized pools for the professed purpose of securing certainty, uniformity and permanency in freight rates, but they did not respect the pools which they entered into when immediate advantages could be

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obtained by a breach of good faith. They increased the cost of living. They laid proprietary claim to the traffic of large sections of the country. They squandered millions of their money to "protect" their territorial claims, while expending other millions in encroachments upon the territory claimed by other companies. They constituted themselves the arbiters of trade. They attempted to dictate the channels that trade should follow and fixed rates of transportation that were extortionate. They charged all that the traffic would bear, and appropriated a share of the profits of every industry by charging the greater part of the difference between the actual cost of production and the price of the article in the market. They discriminated between individuals, between localities, and between articles. They favored particular iudividuals and companies. They destroyed possible competitors, and they built up particular localities to the injury of other localities, until matters had reached such a pass, that no man dared engage in any business in which transportation largely entered without first soliciting and obtaining the permission of a railroad manager. They departed from their legitimate sphere as common carriers and engaged in mining articles for transportation over their own lines. They exerted a terrorism over merchants and over communities, thus interfering with the lawful pursuits of the people. They participated in election contests. By secret cuts and violent and rapid fluctations in rates they menaced business, paralyzed capital, and retarded investment and development."

PROFITS OF $278,023,357.63 IN OPERATING THE ROADS.

The reports of these companies show the following figures relating to operation, disclosing a profit or net earnings of $278,023,357.63, equaling fifteen million dollars a year.

EARNINGS TABLE.

ROAD.	GROSS EARNINGS.	OPERATING EXPENSES.	NET EARNINGS.
Union Pacific	$315,303,504.66	$169,916,078.90	$145,387,425.76
Central Pacific Railroad, from 1863 to December 31, 1886	274,139,116.27	149,199,102.40	124,940,013.87
Sioux City & Pacific Railroad, from July 30, 1866, to June 30, 1887	9,187,359.50	6,423,596.82	2,763,762.68
Central Branch Union Pacific	12,849,463.47	7,917,308.15	4,932,155.32
Total	$611,479,443.90	$333,456,086.27	$278,023,357.63

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OVER $25,000,000 FOR POOLS, REBATES AND OVERCHARGES.

In addition to the gross earnings given as above, the bond aided companies received the following sums, which they subsequently paid out on account of pools, subsidies, rebates, overcharges, etc.

POOLS, REBATES AND OVERCHARGES.

ROAD.	Pools.	Rebates and Overcharges.	Total.
Union Pacific Kansas Pacific	$4,004,512 48	$11,577,091 62	$15,581,604 10
Sioux City & Pacific			401,832 01
Central Pacific			9,882,799 61
Total			$25,866,235 72

"PAYMENTS FOR IMPROPER PURPOSES.

Large sums were also applied to improper purposes. In the accounts of the Sioux City & Pacific Railroad Company this item amounted to $263,812.08 for losses incurred in operating the Fremont, Elkhorn & Missouri Valley Railroad, in which the directors of the Sioux City & Pacific Railroad were interested."

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"In the accounts of the Union Pacific, it was found that $38,000,000 of the funds of that company had been expended for the construction of branch lines, that many millions additional were squandered in purchasing of bankrupt branch lines at excessive prices, and that the earnings of the express and telegraph service of that company, as well as of the other bond-aided companies, were, in violation of law, placed under the control of express and telegraph companies in which some of the managers of the Union and Central Pacific companies were largely interested and of which they were the main beneficiaries."

Foot of page 144.

"LEGAL EXPENSES.

Large sums were also squandered by some of the bond-aided companies to pay for the service of lawyers to influence legislation, the total legal expenses of the companies being as follows:

Union Pacific and Kansas Pacific	$2,349,554.80
Central Branch	333,661.65
Sioux City & Pacific	37,287.75
Central Pacific	2,361,154.88
Total	$5,081,659.08"

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"THE MANAGEMENT CONTEMPLATED BY CONGRESS AND THE METHOD ACTUALLY PURSUED.

"Had the Pacific railroads been build and managed upon honest methods, had the Government loan been properly applied, these companies, regarded as a whole, could have declared dividends at the rate of 6 per cent. per annum for eighteen years, from the date of actual completion to the present time, upon all the moneys that they would have been required to pay in to complete and equip the roads; they would have owned 2,495 miles of roads free from all debt, and worth $124,600,000, upon an original outlay of less than $35,490,381.44, three of them, the Union Pacific, Central Pacific and Central Branch, could have repaid every cent of the principal and interest advanced by the Government to date, and could have reduced their charges to shippers to the extent of over $140,000,000, or nearly $8,000,000 per year.

"For $1.00 the stockholders would have realized $1.07 in dividends in eighteen years and $1.11 in land sales. The property would have been free from debt, and for every dollar that they had invested the stockholders would have had in property over $4.00; so that in eighteen years each dollar would have yielded $6.18.

"But they chose dishonest methods. At the outset they divided $172,347,115 of fictitious capital, they dissipated over $107,000,000 which should have been applied to the payment of the principal and interest of the Government debt, and they taxed shippers to the extent of over $140,000,000, or nearly $8,000,000 a year, to pay for the inflation of the capital of these companies and for the vicious practices that crept into their management.

"The Union Pacific and Kansas Pacific (aided portion) roads could have been built for an original outlay by stockholders of $17,021.488, in addition to the Government loan; all debts could have been paid, including the Government debt, principal and interest, to December 31, 1886, and from the profits of operating the roads and from land sales aggregating $176,294,793.53 the stock could have paid regular dividends at the rate of 6 per cent. per annum; and by an original outlay of $17,021,488, which the law required, but which was not made, the company would to-day own a railroad worth at least $79,000,000, and unsold lands worth $14,004,240, equaling an appreciation of 447 per cent. in eighteen years, while shippers would have been benefitted and the developments of tributaty territory encouraged by a reduction of $85,130,845.49 in charges for transportation."

Foot of page 148.

"In considering a method for the adjustment of these debts, the Commission was told that The Union Pacific Company would pay $35,000,000 for the extinguishment of the whole amount of its indebtedness.

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"The officials of the Central Pacific said that the aided portion of that line was not worth the more than the first mortgage of $27,855,680, which is prior to the Government lien, thus leaving the Government without any return for its advances.

"John I. Blair, who built the Sioux City & Pacific road, offered $1,000,000 for that line.

"The Central Branch was probably included in the offer of $35,000,000 made by the President of the Union Pacific.

"So that it will be seen that the Commission was offered only $35,000,000 in settlement of a claim the present worth of which is $122,482,106.32."

Foot of page 151 and top of page 152.

"The present capitalization and indebtedness of The Union Pacific Railway represents *triple the cost of its production.* To extend the debt is to place a mortgage upon the earnings and upon the products of the people of Kansas, Nebraska and Colorado, not only of this but of succeeding generations. Why should the iniquitous results of the Credit Mobilier be made a burdensome exaction upon the generations that come after it? To extend the debt is to perpetuate the extortionate rates of transportation which are now charged by the Union Pacific for the maintenance of its present inflated capitalization. Why should the communities of the great west be forced to pay rates that will perpetuate this enormous burden of fictitious and fraudulent indebtedness?

"To continue the Union Pacific in its present condition is to force the territory which is tributary to that line to pay fixed charges of $8,000,000 per annum, exclusive of dividends to stockholders. If that line were capitalized on a proper basis, the sum of $4,000,000 would pay interest. To extend the debt, therefore, is to tax the western people, through high rates, not only to pay interest for fifty years on the Government debt at the rate of at least $2,000,000 a year, but to pay interest also on the other fictitious capital that is represented in the stocks and bonds of the Union Pacific, at the rate of $2,000,000 a year additional, or a total of $4,000,000 a year for fifty years. Would it not be an abuse of its power for Congress to give more consideration to stockholders who are legatees of a gigantic fraud rather than to the people who are forced to ship over the road, and who have been taxed for eighteen years to sustain that corporation? The whole question resolves itself into a choice of protecting the so-called innocent stockholders, as against the consumers who pay $26,000,000 a year to the Union Pacific for transportation service.

"The people of the west should be freed from the incubus of this enormous load. Eventually the consuming classes and not the stockholders must pay this bill if extension of time be granted, and it will be ruinous to the communities which are dependent on the Union Pacific if they are forced to bear their share of this great burden, while communities on other roads bear only the burdens of moderate capitalization. So long as The Union Pacific Railway

Company is forced to carry this debt, enterprise and development along its line will be measurably repressed."

Foot of page 153.

"In applying the remedies necessary for securing the Government indebtedness, the Attorney-General should proceed against all persons and corporations who in any way were parties to or participants in the results of any of the illegal and fraudulent acts which have characterized the management of these corporations and resulted in the waste and misappropriation of the funds of the companies and consequent depreciation of the Governmet security.

"If this recommendation should be adopted, the population of the great west through which the lines of the road extend would have these public highways existing and managed as it was intended by law they should be, in the interest and for the benefit of the people, and not as subjects for stock gambling and speculative practices through which enormous fortunes are amassed by railroad officials and favorites, while communities are burdened and private industry repressed. In other words, these roads, as a result of legal purgation, would be free, clear, and clean public highways, honestly and lawfully managed."

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"15. By section 1 of the Thurman act, the Union Pacific and Central Pacific companies were required each to ascertain its net earnings by deducting from the gross amount of its earnings the necessary expenses actually paid within the year, in operating and keeping the road in a state of

repair and also by deducting interest on the first mortgage bonds. Instead of complying with this obligation, the Union Pacific Company has deducted over $10,000,000 and the Central Pacific over $5,000,000 since 1878 on account of pools, subsidies, rebates, and refunds, and both companies have wrongfully misstated their gross earnings in their reports to the Government.

"It was claimed by the companies that these payments were made to maintain rates and to buy trade. But their concealment and the omission of those large sums from the gross earnings of the companies as reported put the burden of proof upon them in each and every case. Included in these secret and improper deductions were payments of over $4,000,000 to the Pacific Mail Steamship Company by the two companies; $200,000 to northern lines for keeping out of certain territory; $570,000 to the Omaha and Grant Smelting and Refining Company since 1883; $227,000 charged by Mr. Charles Francis Adams, in 1884, for "estimated loss on Salt Lake City and Colorado coal sales"; rebates to the Utah Forwarding Company and to the Northwestern Forwarding Company, at the rate of $3 per ton, for salt that could be bought for $1.75 per ton; rebates of $22,000 to the Marshall Consolidated Coal Mining Company for coal that could only be carried over the Union Pacific line; commissions to Lyman & Wallace, of Salt Lake City, for handling coal and salt; rebates to Adams & Keisel, because they had promised to expend $100,000 for the building of a bathing resort at Syracuse, on Salt Lake; $25,000 a year to the

Union Elevator Company at Council Bluffs as a terminal allowance; and large sums to the firm of Himebaugh & Merriam at Omaha, for the same purpose.

"The rebate book was used as the hiding place for the iniquities in the system. Payments that were not made to buy trade or to buy peace were put in there. It was one of the "india-rubber" accounts of the company. Opportunities for the rankest favoritism and corruption were invitingly spread before the officers of the operating department; and, by the secrecy of these accounts, the company gave to favored shippers great advantages which it refused to give to others. Ex-Senator Hill, of Denver, said that his smelting works would have gone into the same business as the Omaha and Grant Smelting and Refining Company, if he could have had any assurance that he could get the same rates."

Top of page 166.

"In addition to the deductions made on account of pools, subsidies and rebates, the Union Pacific and Central Pacific companies also resorted to a scheme of constructive mileage. Under the system adopted, the companies did not distribute their earnings on a shipment on the pro rata or straight mileage basis, but each allowed its unaided or branch lines an additional or assumed mileage; so that on a shipment from Omaha to Lincoln, Neb., for instance, in which, on a straight mileage, the Union Pacific should get a mileage allowance of 34 miles out of 116 miles, and the Omaha & Republican Valley should receive its proper share

for 82 miles out of a total mileage of 116 miles, the Omaha & Republican Valley Railroad would, under the constructive mileage system, be allowed 1½ miles for every actual mile. The Union Pacific would then get an allowance of 34 miles out of a total of 158 miles, instead of out of 116 miles; so that if $20 were paid for transporting a car from Omaha to Lincoln the Union Pacific's share would, under the constructive mileage system, be diminished from $5.86 on the straight mileage basis to $4.33 on the constructive mileage basis for transportation of the car for 34 miles, and the share of the Omaha & Republican Valley line would be increased correspondingly.

"The estimates for one year placed the total transfer from the Union Pacific to its auxilary companies at $442,000 and for six years it is estimated at $2,240,000; but as the Union Pacific owned the stock of the branch lines, it did not lose one cent by adding the sum of $442,000 to the earnings of the branch lines and deducting that sum from the earnings of the main line."

Foot of page 166 and top of page 167.

"The two companies gained in another respect by adopting constructive mileage. They were required to pay 25 per cent. of their net earnings to the Government. If either company diminished the apparent gross earnings of the main line to the extent of $442,000 per annum by transferring that sum to the gross earnings of the branch lines, it saved over $110,000 in its immediate payments to the Government. It is probable that the payments by The Union

Pacific Company to the Government since 1881 have been diminished through the constructive mileage device to the extent of $500,000. This figure is an estimate, as the accounting involved is an accurate determination of the amount of constructive mileage allowances granted by The Union Pacific Railway Company to its branch lines could be prepared only by the examination of each way bill issued during six years, and this work would consume years in time and a vast sum of money.

"The gross earnings, as reported, also failed to show the earnings of the Omaha Bridge and of the Pullman Palace Car Company. The earnings from the telegraph and express business were also diverted by the Western Union Telegraph Company, by the Pacific Express Company and Wells, Fargo & Co., which should be made to account to the Government for all earnings in excess of "the necessary expenses of operating and keeping the roads in a state of repair.

"It is, therefore, found that the gross earnings of the two companies, as reported and settled for with the Government, were wrong in so far as they overcharged the Government for Government service, so far as the earnings were reduced by the omission of the actual earnings of any parts of the railroad, and by the omission of the earnings for telegraph and express service; by the allowance $442,000 a year in constructive mileage to branch lines, and by the deductions for rebates, pool balances and subsidies, amounting to about $4,000,000 a year, or at least for so much

thereof as was paid out for favoritism to particular firms or companies and for other purposes which were entirely foreign to rebates and pools and which did not partake of a trust relation."

Foot of page 167.

"18. The Union Pacific Railway Company has failed to fulfill the obligations imposed upon it by the inter-state commerce law, approved February 5, 1887. It has discriminated between connecting lines; it has executed a traffic arrangement with the Chicago, Milwaukee & St. Paul Railroad Company as against its other eastern connections; it charges more for the short haul than for the longer haul; it participates in agreements to maintain rates which are unreasonable, and also violates that part of section 1 of the act referred to which requires that all charges for transportation and service shall be reasonable and just."

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"OBLIGATIONS AS A COMMON CARRIER.

"As a common carrier the Union Pacific was under obligation to carry for all persons on equal terms and rates without discrimination, and to charge reasonable and just rates for its service. But the inflation of its capital and indebtedness to the extent of $70,000,000 at the inception of the enterprise precluded the possibility of fair rates except in rare cases of healthy competition. In fixing rates The Union Pacific Company started out upon the principle of charging all the traffic would bear."

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"FREIGHT RATES.

"When the Commission visited the communities which were served by The Union Pacific Railway Company, there was a general complaint of high rates. But the greater complaint made by shippers was against discriminating rates. If rates were uniform, certain, and permanent, a shipper knew that skill, ability, and enterprise would help him on. But when the question became one of favor with the railroad manager, then capital was paralyzed.

"Farmers complained (see p. 1527) that they could not get rates for shipment to Chicago within five or eight cents of the figure which the elevator men obtained.

"The firm of Himebaugh & Merriam, of Omaha, owns thirty-two elevators along the Union Pacific System; and when the farmers at Maryville, Kansas, tried to ship directly to the market, they found they could not compete with that firm. Their complaint was that three-fifths of the product of their labor went to the railroad company, one-fifth to interest, and one-fifth was left for subsistence. At Maryville, Kansas, it was testified (see p. 1540) that at one time the Union Pacific Company reduced its rate on corn from thirty-two cents to twenty-seven cents per 100 lbs., to enable farmers to ship to market; but the rate went back again to thirty-two cents as soon as the market justified it. It, therefore, mattered little to the farmer whether his crop was large or small. If large, the company appropriated a considerable portion of it in high rates; if small, it only allowed him enough to live on.

"The complaints of localities and of various industries were of the same tenor. A few concerns monopolized the entire trade of the territory tributary to the road and dictated terms to the company for their own advantage."

Foot of page 182 and page 183.

"The Omaha and Grant Smelting and Refining Company received rebates of $570,000 in a period of three years, and, in addition, was allowed free switching at its yards, which was worth $15,000 a year, while other smelting companies were forced to pay switching charges. Among the stockholders in this company were Mr. Sidney Dillon and Mr. Frederick L. Ames, directors of The Union Pacific Railroad Company.

"The testimony taken at Omaha, at Denver and at Salt Lake City showed that other smelters had been refused the rates that were given to the Omaha and Grant Company. Senator Hill, who represented the Boston and Colorado Smelting Company of Denver, declared that his company would have been in the same business as the Omaha and Grant Company if he could have obtained any assurance of getting the same rates as that corporation. He had repeatedly applied to the president and officers of the company for rates, but had never been able to obtain them.

"The miners of the Wood River country in Idaho were forced to sell their ores to the Omaha and Grant Works at Omaha, and to pay $11 per ton for smelting, the total cost of transportation and smelting being $34 per ton, while the miners at Butte and Helena were allowed to send their ores

to Salt Lake City at a cost of $8 for transportation and to pay only $8 for smelting, making a difference between $34 for the transportation and smelting of the Wood River ores and $16 for the Butte and Helena ores.

"The transportation rates from the mines of Leadville to Denver were so adjusted that the smelting business was driven away from Leadville to Denver, so that of the twenty-three furnace stacks in Leadville less than one-half were running when the Commission visited that place. The method adopted by The Union Pacific Company was to charge only $5 for transporting a ton of ore and $12 for a ton of bullion, the effect being to force the smelting business into the Denver branch of the Omaha and Grant Smelting Works. The people of Leadville complained of these unbalanced rates, declaring that either the rate on ore was too low or the rate on bullion was too high, and they showed that by fixing the rate on bullion at $12 per ton the smelters of Leadville were unable to remain in the business. To use their own words, 'The Leadville smelting business had been crushed since the Omaha and Grant Works were established in Denver, four years ago.' They also complained that the charge for transporting bullion between Leadville and Denver was higher than for any similar service in the country, being at the rate of eight cents per ton per mile.

"When the president of The Union Pacific Railway Company was asked to explain why it had discriminated in favor of the Omaha and Grant Works, he said that the other roads into Denver were backing other smelting estab-

lishments, and that the Union Pacific therefore backed the Omaha and Grant Works against all other smelters in that system. He admitted that it was a great evil (see p. 1997) and that it was a vicious way of conducting business, but confessed his utter inability to remedy the evil.

"As a result of the discrimination which the Union Pacific made in favor of the Omaha and Grant Company, its business has been built up to such proportions that it is now practically able to dictate its own terms to the railroad company.

"The firm of Himebaugh & Merriam, at Omaha, which owns thirty-two elevators on The Union Pacific System stated (see p. 1301) that it had no competitors on the line of the Union Pacific, except the Union Elevator Company of Council Bluffs. The elevators at Omaha and Council Bluffs have been allowed one cent as a terminal charge for transfer through their elevators, and two cents additional, at times, to meet competition. The testimony developed the fact that farmers were forced to sell to Himebaugh & Merriam, or at least that they could not compete with that firm in shipments.

"The firm of Lyman & Wallace, under the names of the Utah Forwarding Company and the Northwestern Forwarding Company, has occupied a similar relation to The Union Pacffic Railway Company in connection with its salt and coke business. The railway company, upon the pretext that it wanted to protect the smelters at Butte from corners in salt, determined to buy salt for delivery to it at Ogden, and fixed $3.00 per ton as the price which it would pay. A

firm in Ogden offered to furnish salt to the railroad company at $1.75 per ton, but this proposal was refused, and the railroad company paid Lyman & Wallace and the firm of Adams & Keisel $3.00 per ton for salt delivered at Ogden."

Foot of page 184 and top of page 185.

"The Union Pacific Company has granted to the Standard Oil Company, the Continental Oil Company, and the Consolidated Tank Line Company, since 1880, large sums in rebate, and it has made its entire territory inaccessible to other oil shippers.

"The Union Pacific Railway Company also controls the retail price of coal along its entire system, and because of the fact that coal yards are established on its right-of-way, coal dealers before embarking in the business must obtain the consent of the company. In order that it might retain a complete monopoly of the coal traffic, it refused to lease any of its coal lands on royalty; and it acquired unlawfully, by private entry and by the use of the names of its employees, the ownership of the Government coal lands adjoining its own property, its total investment in that direction amounting to $198,000. Until recently it owned a number of mines in northern Colorado, but a bargain was made between Mr. Charles Francis Adams and the Marshall Consolidated Coal Mining Company by which the entire coal business of The Union Pacific Company in that state south of Greeley, Colo., was practically transferred to the Marshall Company, and an agreement was made to allow rebates on the principle that it would pay the carrying company better to carry 2,000,000

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tons at sixty cents per ton than 100,000 tons at $1 per ton. After this arrangement had been consummated, coal dealers and coal miners in that state became aware of the fact that some compact which was inimical to their interests had been made by the company, and complaint was made to its officers, but the complaints were met with pointed and positive denials of any rebate allowances."

Page 186.

"In the examination of the accounts of the Pacific Hotel Company, in which The Union Pacific Railway Company has a half interest, it was found that the freight supplies of that company were transported free of charge.

"In granting rebates the company followed no rule, and its published tariffs were worthless except for charges against the Government. All rebates were put on overcharge blanks,so that it was difficult, from the face of the voucher, to ascertain whether the rebate allowance was an allowance by agreement or an allowance for error. A thorough examination of the rebate system of The Union Pacific Railway Company leads to the conclusion that it was the policy of the company to concentrate business in a few hands, thereby building up a few men at the expense of others."

Page 188.

"A company with $100,000,000 of water in its capital will not take the same view of a reasonable rate that would be taken by a company conducted upon sound business principles. The pool puts the merchant at the mercy of an

arbitrary rate, determined by a railroad manager who disregards cost of service in his adjustment and who fixes rates between localities, individuals, and industries under varying conditions. Such a system must produce glaring inequalities, gross favoritism, and opportunities for corruption."

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"The merchants of Lincoln, Neb., felt that they were so badly treated by the railroads which served that city that they organized a bureau of transportation, drew up protests to the railroad company, and presented arguments to the Inter-state Commerce Commission against the discriminations under which that city labored. They made the general charge that The Union Pacific Railway Company was destroying the wholesale business of Lincoln, and that the railroads which centered there had used the Inter-state Commerce law as a lever to justify them in raising the rate on lumber from Missouri River points from 8 cents to 20 cents per 100 pounds. Mr. Raymond, a wholesale merchant of that city, charged that The Union Pacific Company was discriminating against Lincoln and in favor of Omaha, and explained how Mr. Spreckels, the California sugar refiner, had obtained a special rate of 50 cents per 100 pounds to Nebraska City, Kansas City, Omaha, Leavenworth, Atchison, and Lincoln. The Omaha merchants asked Mr. Spreckels to quote sugar one-eighth of a cent per pound higher to Lincoln than to Omaha. Mr. Spreckels refused, and then the Omaha merchants appealed to General Manager Kimball, who struck Lincoln from the list of cities which

were favored with the special rates, and gave it a local rate. It was charged (see p. 1528) that the Union Pacific refused to take sugar to Lincoln unless it had been shipped through Omaha, and that this action of the railroad company had almost ruined the Lincoln business in sugar.

"Merchants in Columbus, Neb., complained that although they were 91 miles nearer San Francisco than Omaha, both being on the same line, they were forced to pay higher rates; that the rate from Omaha to San Francisco was $1.40 per 100 pounds, while the rate from Columbus to San Francisco was $3, and the only way they could ship to San Francisco was by way of Omaha. The charges in connection with the cattle business were so high that the Columbus dealers were forced to quit. (See page 1477).

"In shipping to Memphis from Columbus, the rate to Papillion, for a distance of 75 miles on the Union Pacific, was five cents greater than from Papillion to Memphis, Tenn., a distance of 500 miles on the Missouri Pacific. In other words, the rate from Columbus to Papillion was 30 cents and from Papillion to Memphis 25 cents.

"Similar complaints were made by the people of Grand Island. Mr. Hedde, of that place, declared that a carload of nails from Pittsburg via St. Louis to Council Bluffs, a distance of more than 1,000 miles, cost less than from Council Bluffs to Grand Island, a distance of 150 miles."

Page 190.

"The Union Pacific Railway Company has taken advantage of the interstate commerce law to oppress trade,

having used the application of the law as a pretext for a general increase of rates varying from 20 to 33 per cent. The decision of the Inter-state Commerce Commission relative to the suspension of the 4th section has been availed of by the companies as a justification for outrageous discriminations. In place of pools, which were prohibited by that act, the companies have substituted 'agreed rates.' The prohibition of pools contained in that act has simply forced a change in the nature of the combinations from agreements for division of earnings or territory or traffic to agreements for the maintenance of rates which are unreasonable. It is not strange that the company, when mining and selling coal, and quarrying and selling stone, with the power to drive all competitors out of the market, should exercise that power for its own temporary advantage and to the injury of those whom the Government is bound to protect. As was stated on page 233 of the Government Directors' reports, the company claims that self-preservation forces it to condone or to practice these discriminations.

"At Columbus, Neb., Mr. Leander Gerard (see p. 1481) testified:

"'Merchants understood that if they did not do as the railroad company wanted, it would discriminate against them. Men that were friendly to it would have privileges extended to them, and the politicians and fellows that were active had advantages.'"

Page 191.

"The Union Pacific Railway Company has interferred with the political affairs of Kansas, Nebraska and Colorado;

it has entered into election contests, and in Nebraska it became such a powerful force in politics that a combination of nearly all the other political elements in the state was required to combat it. Its interference was continuous, beginning in the year 1872, and involved a general contest in the state in the years 1875 and 1876. At that time The Union Pacific Company made a combination of railroad and federal officials for mutual advantage, and it enlisted the services of postmasters and revenue officers in carrying bond elections that were in its interest in various counties, and in defeating other companies who were to be benefitted by such bond elections. In the year 1876 there was a pitched battle lasting four days, in the republican state convention. (See p. 1335.) The company has made it a rule (see p. 1049) to tender a pass to every member of the legislature to influence legislation in its interest. But it has not stopped at the distribution of its favors to legislators. It has gone so far as to influence the election or defeat of members of the legislature. By "expressing a wish" it has induced its employes to support or defeat candidates; and in some localities (see p. 1498) it was testified that a constable could not be elected without the permission of the Union Pacific officers.

"The company has been impartial in its political affiliations and has used all parties alike for its purposes.

"Hundreds of thousands of dollars have been disbursed at the state and national capitals for the purpose of influencing legislation, and as many as fifteen men were maintained

on pay in attendance upon the legislature of Nebraska during its sessions at Lincoln.

In view of these facts, it is not surprising that the sentiment of the people of Kansas, Nebraska and Colorado has been largely in favor of railroad regulation by 'the states.'"

Page 192.

"The State of Nebraska attempted to compel The Union Pacific Railway Company to take out patents on its land grants, but The Union Pacific Company interfered in Congress to prevent it and succeeded in defeating such legislation, thereby putting all the burdens of local government upon other land and other property owners. (See p. 1417.) In 1872 the lands of the company were assessed and placed on tax duplicates in Nebraska, but the company enjoined collection upon the ground that the land was not taxable until application had been made for patent. The company then engaged largely in the sale of uncertified lands (see Government Directors' Reports for 1873), and at the present time over 7,000,000 acres of land sold by that company are without patent from the Government. In certain localities the company did not select lands for patenting, because there was no demand for it, and it would only apply for patents (see p. 1020) when a fair proportion of the purchase money had been paid, may be two or three years after they were sold.

"The company not only retained control of the lands granted to it by the Government, but by the use of the

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names of its employees (see page 1432) it required possession of coal lands that were open to private entry through the act of Congress of March 3, 1873, permitting only individuals or associations of three persons to acquire coal lands (see page 1327.)"

Foot of page 194 and page 195.

"In this view of the case it appears that on the bond-aided portion of the road and on the bridge there are prior liens, as follows:

	MILES.	AMOUNT.
Union Pacific Railroad.....	1,032	$27,236,512.00
Kansas Pacific Railroad.....	394	6,203,000.00
Omaha Bridge.....	3.7	1,519,000.00
	1,426.7	$35,058,512.00

An appraisement of this portion of The Union Pacific Railway System, based on the cost of reproducing the present property, as made by the inspecting engineer of the Commission, on a most liberal basis, is as follows:

Cost of reproducting the main line Union Pacific.....	$27,857,500.00
Cost of 394 miles of the Kansas Pacific Railroad	11,800,000.00
Omaha Bridge.....	2,000,000.00
Total.....	$41,657,500.00

"The terminals at Omaha, Ogden and Kansas City have been appraised as follows:

Omaha	$10,000,000.00
Kansas City	5,000,000.00
Ogden	300,000.00
Total	$15,300,000.00

"The engineer estimates that the Sioux City & Pacific can be reproduced for about $22,000 per mile. Yet Mr. Marvin Hughitt, of Chicago, the president of the Chicago & Northwestern Railroad Company and of the Sioux City & Pacific Railroad Company, told the Commission that he could duplicate the Sioux City & Pacific line for $9,000 a mile. Recently the track of the Sioux City & Pacific was appraised by two eminent engineers for the purpose of fixing the rental which the Fremont, Elkhorn & Missouri Valley Railroad should pay for passing over 31 miles of the track of the Sioux City & Pacific, and that appraisement fixed the present value of that section at about $11,000 per mile. It was the most expensive portion of the line of the Sioux City & Pacific.

"Mr. Jay Gould told the Commission that he was building roads at a cost of $9,000 per mile, and related how he had proposed to the directory of the Union Pacific, shortly after the passage of the Thurman bill, to duplicate or parallel the main line of the Union Pacific from Omaha to Ogden for $15,000,000."

Page 196.

"Mr. Peter A. Dey, one of the railroad commissioners of Iowa, and the original engineer of the Union Pacific, who

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resigned rather than be a party to the Credit Mobilier frauds, told the Commission that the main line of the Union Pacific could be paralleled and equipped to-day for $25,000 a mile.

"Here, then, we find two valuations, viz:

On basis of net earnings	$102,385,496
On basis of reproducing	41,657,500
Difference between the two estimates	$ 60,727,996

"In 1880 the Union Pacific Railway, as a whole, aided and unaided, was earning about 30 per cent. of its cost of reproduction, and in 1886 its net earnings were 19 per cent."

W. A. DILWORTH, re-called for further cross-examination.

By Mr. Woolworth:

Q. Will you file with the examiner the statemant of the matters I gave you a memorandum of some time ago, as your answer, as a part of your examination?

A. I do not see any objection to my doing it; I will do that; yes, sir.

Q. What do you say to the request?

A. Well, I will make that mathematical computation for you, Mr. Woolworth.

Q. When will you do it?

A. I think I can have it down here by Tuesday or Wednesday morning.

Q. You said this morning it was all done in pencil?

A. Yes; but I have got to have it run off, I don't want to put it in in pencil; I have got it partly in typewriting, but I do not like the way it is gotten up.

LESTER F. WAKEFIELD, sworn, testified in behalf of defendants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Webster.

Q. State your name?

A. Lester F. Wakefield.

Q. Where do you reside?

A. Sioux City, Iowa.

Q. What is your age?

A. I am 41 years old.

Q. And what has been your profession?

A. Civil engineering.

Q. Have you had experience as a civil engineer in the building and equipment of railroads?

A. Yes, sir.

Q. State when and where your work in that line first began?

A. In 1871, my first work began, of course I held a subordinate position at that time, in Illinois, building a line from La Harp, nearly opposite Burlington, in connection with the C. B. & Q.

Q. How long were you employed on that line of road?

A. One season, I could not say the exact number of months.

Q. Where next?

A. On the Chicago, Clinton & Dubuque, from Clinton to Dubuque, along the Mississippi River.

Q. How long was you with that company?

A. I was with that company for two seasons.

Q. With what road were you next connected?

A. With the old St. Paul & Pacific; that is now the Great Northern.

Q. How long was you connected with that road?

A. For two years; it might possibly lack a month or so of being two years, but it was two seasons.

Q. What road next?

A. With the old St. Paul & Sioux City, now the Omaha.

Q. How long were you connected with that road?

A. Two years.

Q. You may now state the next company you were with?

A. The F. E. & M. V.

Q. How long were you with that company?

A. One year.

Q. Now give the next road you were with?

A. I was employed as consulting engineer one season for the Illlnois Central when they were building from Cherokee to Sioux Falls; I did not have direct charge of their work, but was called in at any time.

Q. Now, the next company?

A. Next company was the Pacific Short Line.

Q. State what your duties were particularly with the Pacific Short Line?

A. I had charge of all locations as assistant to the chief, I had charge of all locations and construction from Casper, Wyoming to Sioux City.

Q. Did that line run west from Sioux City through the State of Nebraska out into Wyoming?

A. The location did, yes, sir.

Q. And how far was the line of road actually constructed?

A. One hundred and twenty-nine miles.

Q. And was you the engineer in charge of that construction?

A. Yes, sir.

Q. And what did you have to do with reference to the line as far west as Casper in the State of Wyoming.

A. I had charge of the locations.

Q. And were the locations and surveys completed out into Wyoming?

A. Yes, sir.

Q. All under your management?

A. Under my direction.

Q. Did you have anything to do with the Sioux City & Northern?

A. Yes, sir.

Q. What did you have to do with that road?

A. I had charge of their locations and that was the same time I was on the Pacific Short Line, but I was employed as consulting engineer, they had no chief engineer.

Q. Did you have charge of construction of all or any of the other roads you have mentioned before you took charge of the Pacific Short Line?

A. Yes, sir; I had construction from Emerson to Norfolk.

Q. That was what line?

A. St. Paul & Sioux City at that time. I had charge of the Heron Lake construction, line from Heron Lake to Woodstock, and I had charge of construction on the northern part of the old St. Paul & Pacific.

Q. Where you had charge north of Emerson, that constitutes a part of what road, at the present time?

A. The Chicago, St. Paul, Minneapolis & Omaha?

Q. Are you familiar with the territory through which the Union Pacific line runs from Omaha west to Ogden?

A. I am by riding over it in a car and noticing it from the car windows.

Q. Have you been over the line more than once?

A. I have been over the line 12 different times.

Q. What familiarity have you with the Fremont, Elkhorn & Missouri Valley from Omaha extending northwest through the State of Nebraska?

Q. I have the same familiarty with the Elkhorn line from Missouri Valley to Neligh, and from Neligh on to Valentine. I think I know every foot of it, because I located that line. From Valentine to the state line I have rode over it several times.

Q. Do you know the line known as the Sioux City & Pacific, in so far as it runs through the State of Nebraska, or from its inception at the Missouri River?

A. That is part of the same system; I always class that as if it were Fremont, Elkhorn & Missouri Valley.

Q. You know that line of road from Missouri Valley west?

A. Yes, sir.

Q. And have you been over the Burlington & Missouri River Railroad from Omaha to Lincoln and west of Lincoln?

A. I have been west from Grand Island over the Burlington road; I have never been from Omaha to Lincoln over the Burlington; I have been west as far as Alliance several times from Grand Island.

By Mr. Woolworth:

Q. You mean to say that what you have been over of the Burlington is from Grand Island west to Alliance?

A. Yes, sir.

Q. That is all?

A. Yes, sir; that was simply riding over it.

By Mr. Webster:

Q. Then you do not have the same familiarity with the part of the state south of the Platte as you do north of the Platte?

A. I have no acquaintance south of the Platte except from hearsay.

Q. In a general way you are familiar with all of the territory lying north of the Platte within the State of Nebraska?

A. Yes, sir; I am.

Q. It is what is known as prairie country?

A. Yes, sir; that is what I should call it.

Q. So far as you know, is the country lying south of the Platte also known as prairie country?

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Objected to by Mr. Woolworth, as the witness has said he is not acquainted with that region?

A. Yes, sir.

Q. From your experience as an engineer, have you made yourself familiar with the cost of the construction of railroads in the State of Nebraska, by which I mean to speak of that part of the State of Nebraska with which you are familiar, to wit, north of the Platte River?

A. Yes, sir.

Q. And while you were engaged in the construction of the roads that you have mentioned in the State of Nebraska, did you then know of the actual cost of construction?

A. Yes, sir.

Q. Now, in addition to the cost of construction, did you make yourself familiar with the cost of equipment which was purchased for the Sioux City & Northern, and also for the Pacific Short Line?

A. Yes, sir.

Q. Do you know of the prices paid for rolling stock, engines, etc.?

A. Yes, sir; I do.

Q. Now, have you prepared a tabulated statement, showing the approximate estimate of the cost of construction of a line of railroad, and also the cost of equipment of a line of railroad through that part of Nebraska lying north of the Platte River?

A. Yes, sir; I did.

Q. Will you produce that tabulated statement, to be attached to your testimony as Exhibits "26" and "27?"

A. Yes, sir. (Said exhibits are attached hereto).

Mr. Woolworth objects to Defendant's Exhibits "26" and "27" as immaterial and irrelevant.

The following is a copy of Defendant's Exhibits "26" and "27:"

Defendants' Exhibit "26".—(Copy).

APPROXIMATE ESTIMATE OF COST OF BUILDING AND EQUIPMENT OF ONE MILE OF RAILWAY IN THE STATE OF NEBRASKA.

Grading, 16,000 cubic yards at 14 cents per yard.	$ 2,240.00
Pile bridging, 100 lineal feet at $14.00	1,400.00
Span bridges, 5 lineal feet at $5.00 per foot	250.00
Masonry, 12 cubic yards at $8.00	96.00
Iron pipes for culverts, 10 tons at $35.00	350.00
2800 ties at 45 cents	1,260.00
94.3 tons steel rails, 60 lbs. per yard, at $32.00	3,017.60
Splices, 712 angles, 28 lbs. per pair, $1.90 per cwt.	298.78
Track bolts, 7 kegs, 200 lbs. each at $6.00	42.00
Spikes, 26.4 kegs, 200 lbs. each, at $5.20	137.28
Track laying	360.00
Ballasting	600.00
Cattle guards, 1 pair	46.00
Three road crossings, at $12.50	37.50
Fencing	250.00
Snow fences	100.00
1-7 of 4 complete switches ($105.00 each)	60.00
1-15 of water tank and pump ($3,000.00)	200.00
1-7 of station house ($2,500.00)	359.14
1-7 of section house ($600.00)	85.71
1-7 of stock yards and scales ($1,050.00)	150.00

1-7 of tool house ($50.00)	7.14
Telegraph	300.00
Right of way, 12.12 acres, at $50.00	606.00
Engineering	600.00
1-7 of station grounds (9.2 acres at $50.00)	65.71
Sidings	699.55
Total for construction	$13,618.41

Defendant's Exhibit "27."

(Copy).

EQUIPMENT FOR 100 MILES.

3 Passenger locomotives, 5 Freight locomotives, 2 Switching locomotives,	10 locomotives at $8,500 each,	$ 85,000.00
6 First-class coaches, at $4,800		28,800.00
3 Second-class coaches, at $4,000		12,000.00
3 Baggage and express cars, at $2,500		7,500.00
3 Mail and express cars, at $3,000		9,000.00
150 Box cars, 60,000 pounds capacity, at $500		75,000.00
50 Stock cars, 60,000 pounds capacity, at $400,		20,000.00
100 Flat cars, at $300		30,000.00
7 Way cars, at $800		5,600.00
20 Hand cars, at $55		1,100.00
20 Dump cars, at $30		600.00
1 Bridge car		75.00
1 Derrick and pile driver		5,025.00
1 Steam shovel		6,225.00
Ballast unloader, cable, etc		550.00
Section tools—14 sections, at $100		1,400.00
Terminal grounds, shop grounds, round houses, etc.		200,000.00
Total for 100 miles		$487,875.00

SUMMARY:

Construction of 1 mile	$13,618.41
Equipment for 1 mile	4,878.75
Total	$18,497.16

Q. You may state, Mr. Wakefield, whether there has been any material change in the cost of construction and equipment during the last two or three years, say from 1890 up to the present time, or whether the prices have been about the same during the last three years?

A. Well, there has been quite a change in the price of steel.

Q. In other respects, about the same, is it?

A. Yes, sir; I think so.

Q. Have you examined a reported estimate of the cost of reproducing the main line of The Union Pacific Railway System from Council Bluffs to Ogden, made and reported by Richard P. Morgan, Jr., to the Pacific Railway Commission in 1887, and as found on page 4454, in Vol. 8, as reported by that Commission?

A. Yes, sir; I have looked it over.

Q. Have you noted the amount or estimate of cost of reproduction per mile as stated by Mr. Morgan?

A. Yes, sir.

Q. And what is the amount as you find it per mile?

Objected to by Mr. Woolworth as not the best evidence, immaterial and incompetent.

A. $26,814.

Q. Now, Mr. Wakefield, you may state whether there was at that time, in 1887, and would be now, any difference in the cost of construction between that part of the Union Pacific Railroad lying in the State of Nebraska, and that part extending through the Territory of Wyoming to Ogden, and if there is a difference, which part of the line would be be the most expensive to reconstruct or reproduce?

Objected to by Mr. Woolworth as immaterial, irrelevant and not the best evidence, and the same objection is made to all the questions that may be asked on that subject.

A. The Wyoming line would cost considerably more than the Nebraska lines; it is a more expensive line to grade.

Q. Then if the entire line through Nebraska and Wyoming would in 1887 cost an average of $26,814 per mile, you would understand that the part in Nebraska could have been reproduced or reconstructed for a less sum of money?

A. Yes, sir; I think that is so.

Q. You may state, Mr. Wakefield, whether or no there has been any reduction in the cost of construction and equipment of railroads since 1887, the time when that report was made by Mr. Morgan, and if so, you may state the reasons for such reduction in the cost?

A. Well, the reduction would be in steel rails.

Q. About what were steel rails worth in 1887?

A. I do not know the price; I do not know what they paid in 1887.

Q. Do you know what the price has been during the last year or two, anywhere from 1890 to the present time?

A. In 1890 we purchased steel rails for $40 a ton; they cost us about $45 laid down in Sioux City; today we can get them laid down for $32.

Q. In 1887 were they worth more or less?

A. I do not know; I cannot answer that question.

Q. If you have in mind any other reasons that you may state as tending to show that the cost of construction from 1890 to 1893 or 1894 was less than it was in 1887, you may state what those are?

A. I do not think the cost of construction would vary a great deal; there might be some parts that could be obtained cheaper than others; then there are others, such as ties and piling that would be higher, and I think it would make very nearly an offset.

Q. Then there would not be much difference in the cost of construction in 1887 and the present time?

A. Outside of the price of rails, and that I cannot say.

Q. Did you note whether Mr. Morgan, in his estimate of $26,000 per mile, in 1887, in addition to including the part that went over the mountainous region in Wyoming, also included the bridge across the Missouri River and the line out to Council Bluffs, in making up the mileage referred to in that report?

A. According to his statement it does; it takes in the bridge, and also a piece of line, as I understand the statement, from beyond Cheyenne.

Q. Is that the statement you refer to, found on the first page of said report, giving the mileage from Council Bluffs to Omaha, and then the mileage from Omaha to Ogden, and then the five miles to the junction with the Central Pacific?

A. Yes, sir.

Q. Have you a familiarity with the roads running east from Omaha across the State of Iowa, to wit, the Burlington, the Northwestern, the Rock Island and the Milwaukee?

A. I have with the Rock Island, Northwestern and Milwaukee; the Burlington I am not very familiar with.

Q, You may state, Mr. Wakefield, what are the relative grades across the State of Iowa compared to what they are across that part of the State of Nebraska north of the Platte River, as to whether or no the grades in Iowa are greater or less than they are in Nebraska?

A. Do you mean the grades of the road or the grading, the cost of construction?

Q. What I mean would be the cost of construction, or, in other words, the topography of the country through which they run?

A. The work would be heavier in Iowa than in Nebraska.

Q. So that added to the cost of construction in Iowa over the cost of construction in Nebraska?

A. Yes, sir.

Q. Can you give us an opinion as to how much greater would be the average cost of construction through

the State of Iowa than through the State of Nebraska with which you are familiar, say an estimate, if you can, of how much more it would cost per mile?

A. That is a question nobody could answer, because it would depend on a difference of localities; the average would be greater, I am satisfied of that, but how much is a question I could not answer.

CROSS-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Wakefield, this estimate of the cost of building and equipment of a mile of road in this state is a general estimate and not based on any particular reach of road, is it?

A. No, sir; I made the estimate, taking a basis of various surveys I have made through the northwest part of the state.

Q. And you did not take the cost of any one mile of road, or an average cost of a number of miles of any one particular road?

A. No, sir; I did not.

Q. The equipment account or estimate is an equipment sufficient for the road, the estimate of the construction of which appears on the first page of the exhibit?

A. It is an estimated cost; of course the equipment would vary with the business, but taking the northern part of the state and its resources, it is figured on a basis of what I would estimate would handle the business for an average hundred miles of road.

Q. And the estimate of the cost of construction is for a road that would call for that amount of equipment, is it?

A. Yes, sir.

Q. How wide a road-bed on the surface does this exhibit call for?

A. Fourteen feet in embankment and twenty-two feet in excavation.

Q. What weight of iron?

A. Sixty pounds to the yard.

Q. I believe the number of bridges appear on here?

A. The bridges are estimated the same as the other parts, from various surveys I had made, and taking an average of all of them per mile.

Q. But of course that item would be very greatly increased if the road happened to cross a wide stream, would it not?

A. Well, there might be a hundred miles in Nebraska that would increase the bridging.

Q. You take the Loup Fork, and the Platte River, and such rivers as those; they would not be within the figures given here for bridges?

A. I think they would cover the average hundred miles, for the reason that in locating a road companies do not cross those streams oftener than they have to.

Q. They have to sometimes?

A. Yes, they have to cross them, but they don't average many span bridges in the State of Nebraska in a hundred miles.

Q. You think this estimate, then, would cover the extra expense of such large bridges in constructing a hundred miles?

A. In constructing a hundred miles, the average hundred miles through the northern part of the state, I think the estimate would be an average.

Q. How would it be on the Union Pacific?

A. I think it would cover it?

A. I am satisfied it would cover it.

Q. Iron bridges or wooden bridges?

A. I figured on iron bridges.

Q. What kind of ballast did you figure for?

A. Well, that I allowed $600 for ballast, $600 a mile; of course if there is any gravel near it would ballast it; in the northern part of the state you can strike gravel pits. I could not say as to whether the Union Pacific has any or not, because I don't know whether they have gravel pits or not. I figured on gravel ballast.

Q. How much ballast did you allow, how many yards of gravel would you calculate for?

A. It takes about 3,000 yards.

Q. Is that what is on the Elkhorn?

A. I don't know.

Q. I suppose you do not know what it is on the Union Pacific?

A. I do not know.

Q. This estimate is upon a road just built ready to be put in operation?

A. With the exception of the ballast, yes, sir; for a dirt ballast I would deduct, as they generally build roads in this country the ballast would not cost as much.

Q. Not as much as your estimate?

A. No, sir.

Q. How much deduction do you think ought to be made for that?

A. It would take off $450.

Q. Now, if you should find a road within the state upon which there had been expended $2,500 for ballast, your estimate would not be enough to cover that, would it?

A. No, sir.

Q. I see you allow $300 for telegraph, what kind of a telegraph line will $300 a mile build?

A. Single wire.

Q. What kind of poles?

A. Cedar poles.

Q. How high?

A. Thirty-foot poles.

Q. And how large around?

A. I have forgotten what the exact specifications are, I figured them from the Western Union specifications.

Q. What size did you take for making this estimate?

A. I figured them from the Northwestern specifications for telegraph poles, the Western Union, I would say.

Q. The Western Union specifications for a telegraph line on a new road?

A. Yes, sir; they are not the largest size poles, the same as used in cities.

Q. Did you notice the size of the poles of the Union Pacific when you passed along?

A. No, sir; I did not.

Q. This, of course, would contemplate one arm, would it not?

A. Yes, sir.

Q. And that is all?

A. Yes, sir; that is all, and single wire lines.

Q. What would you say as to that being a fair estimate for a railroad telegraph line which carried from eight to fifteen wires?

A. It would not cover it.

Q. You mean your figures would not cover such a telegraph line as that.

A. No, sir.

Q. Did you notice riding along the Union Pacific that the number of wires was very large, being from eight wires up?

A. I could not state the number; I noticed there were several wires.

Q. How wide a right of way do you allow for?

A. One hundred feet.

Q. I notice that you say "1-7 of four complete switches", now I don't know what that 1-7 is for?

A. They are figured on stations every seven miles, and figured on putting in a sidetrack and passing track at each station.

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Q. What does 1-7 mean?

A. That would be for one mile, a total cost, if there is seven miles.

Q. And how much siding and passing tracks did you allow for in miles?

A. I figured on 2,000 feet of siding and 2,000 feet of passing track for each seven miles, 4,000 feet.

Q. I see you have an item here for masonry, tell what masonry you have estimated for in making that item?

A. I estimated for masonry around the iron pipes for culverts.

Q. That is to say you would put in a culvert of iron?

A. And build masonry at the ends.

Q. That would not cover, of course, culverts that were built of rock?

A. No, sir.

Q. They would cost a great deal more, would they not?

A. Yes, they would cost more.

RE-DIRECT-EXAMINATION.

By Mr. Webster:

Q. In your estimate of equipment you have estimated the cost of new equipment?

A. Yes, sir.

Q. Now, where a road is a long line of road extending across the state from the east to the west line of the state, being a distance of something near 400 miles, on a long line of road such as the Chicago, Burlington & Quincy, the

Fremont & Elkhorn, or the Union Pacific, would there, or would there not be occasion to have as many locomotives on the average per mile as you have set down in your estimate?

A. I do not think it would change it much, as freight divisions are divided up in such shape that they average about 100 miles, and they would use about the same amount of engines.

The further taking of testimony is adjourned until Wednesday, April 18, 1894, at 2 p. m.

TESTIMONY IN REBUTTAL.

J. H. McCONNELL, sworn, testified in behalf of complainants, as follows, viz:

DIRECT-EXAMINATION.

By Mr. Woolworth:

Q. State your name in full?

A. J. H. McConnell.

Q. Mr. McConnell, what is your position?

A. Superintendent of the motor power and machinery of the Union Pacific.

Q. How long have you been engaged with that company?

A. Since 1868.

Q. In what capacity?

A. From 1868 to 1872, general foreman of the shops at Omaha; from 1872 to 1885, division master mechanic at North Platte; afterwards master mechanic of the Nebraska

division at Omaha, and for the past three years superintendent of motor power and machinery.

Q. Mr. McConnell, what was the cost of railroad locomotive engines during the war, down to 1868?

Objected to by Mr. Webster as irrelevant, and immaterial.

A. From 1862 to about 1866 the price of a 30-ton locomotive ran up as high as $25,000.

Q. Was that in gold or in greenbacks?

A. O, that was in greenbacks at that time; the Union Pacific since that time purchased a number of locomotives, and in 1868, their records don't go back further than 1868, the locomotives purchased were 16 by 24 inch cylinders, weighing 34 tons, cost the company $12,000, and 10-wheel engines purchased at that time, 40-ton engines, cost $15,000; in 1874 the company purchased some more 10-wheel locomotives, 18 by 24 cylinders, 43 tons in weight, and paid $11,250 for them; they purchased in 1881 some consolidation engines with a 20 by 24 inch cylinder, weight 50 tons, for $10,700. In 1883 they purchased some engines of the same class, weighing 54 tons, for $9,850; in 1886, they purchased what is known as our standard eight-wheel freight engines, 18 by 26 inch cylinders, weighing 50 tons for which they paid $7,900. Two years afterwards the same class of engines cost then $9,200; that was in 1886. In 1886 they purchased some 18 by 26, 50-ton engines, for $7,900. In 1888 they purchased some engines of the same class, same weight, and they cost them $9,200. In 1890

they purchased some 10-wheel locomotives, 19 by 24 inch cylinder, 60-ton engines, for $7,900. In 1890 they purchased some 10-wheel engines, 20 by 24 inch cylinders, that weighed 65 tons, for $8,000. In 1890 they purchased some consolidation engines, with 22 by 28 inch cylinders, weighing 80 tons, and paid $11,685 for them.

Q. I want to call your attention to the purchase in the year 1888, I think—

A. That was in 1886, $7,900.

Q. What was the reason of such a low figure at that time?

A. There was quite a number of locomotives purchased at that time, and they were built to specifications, and the company sent out specifications to the different locomotive builders to bid on, the bids ran for the same locomotives from $7,900 up to $10,000; these at $7,900 were purchased from the Brooks Locomotive Works, and the fact of their bid being so low was occasioned by the fact that they had no work in their shop at that time, and they preferred to build those engines at actual cost to themselves rather than to close up the shops; the other locomotive builders having considerable work on hand were stiff on their price. As a general thing the price of a locomotive is governed by some of the bidders by the amount of work they have on hand. If they had a small amount of work on hand their price is low, if they are crowded with work, their price is higher.

Q. Those figures you have given, what do you say about their being the ruling prices at the times, expended by you?

A. That was the ruling price from the fact that these bids were submitted to all of the locomotive builders, and the lowest bidder got the engines.

Q. How many engines have you?

A. On The Union Pacific System there are 1026.

Q- How many in this state?

A. Well, it takes about 190 engines to do the work in the State of Nebraska.

Q: On the main line?

A. Well, that is taking the whole State of Nebraska, what is called the Nebraska Division, it takes about 190 locomotives to do that business.

Q. What roads do you include in that system?

A. That would be the Omaha & Republican Valley road, and the main line of the Union Pacific, and the engines that run on the Julesburg branch between North Platte and Sterling.

Q. Does that include any of the engines that are used by the Omaha & Republican Valley?

A. The Omaha & Republican Valley road takes in all of the system, both north and south of the line; . am speaking now of all of the engines in the State of Nebrrska.

By Mr. Hastings:

Q. Does it include this branch known as the Omaha & North Platte?

A. You mean the Omaha & Niobrara & Black Hills road? That is included under the Omaha & Republican Valley; there are two distinctions made, the Republican Valley north, and the Republican Valley south, but it is all under the Republican Valley System.

By Mr. Woolworth:

Q. Can you tell me the difference between the wages of engineers, firemen and wipers, per mile run, between 1883 and 1893?

Objected to by the State Board of Transportation as not rebuttal testimony, and as irrelevant and immaterial.

A. My recollection is that the cost per mile for engineers and firemen in 1883 was 6.37 cents per mile, and in 1893 it was 9.19 cents per mile.

Q. State the difference between the average net earnings per mile run by passenger and freight trains between 1883 and 1893?

A. should have to refer to that memorandum. The average net earnings per mile for passenger and freight trains in 1883 was $1.10.

The State Board of Transportation objects to this for the reason there is nothing in this case to show that this witness is in any way qualified to testify upon this subject on which he is now inquired, it not being in the line of his duty.

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A. The net earnings per mile in 1883 was $1.10; in 1893 it was 47 cents per mile.

By Mr. Webster:

Q. The net earnings upon what?

A. Per mile of the earnings of the passenger and freight trains per mile for each train, or the combined earnings of both trains in 1883 was $1.10, and in 1893 47 cents.

By Mr. Woolworth:

Q. I want you to state, if you can, how many tons were hauled one mile on The Union Pacific System for the months of July, August, September, October, November and December, 1892, and for the same months in 1893?

The State Board of Transportation objects to this for the reason that there is nothing in this case to show that this witness is in any way qualified to testify upon the subject matter inquired of, it not being in his line of duty.

A. In July, 1892, the number of tons of freight hauled one mile was 230,001,932; in August, 246,181,763 tons; in September, 277,258,361 tons; October, 283,412,084 tons; November, 269,267,220 tons; December, 246,998,186 tons. July, 1893, 166,602,005 tons; August, 168,580,283 tons; September, 206,992,434 tons; October, 242,724,112 tons; November, 238,113,464 tons. I have not the December figures here because they have not been compiled yet.

Q. How did this great reduction of tonnage show itself in the earnings of the company?

A. For the first six months of 1893 the earnings of the road fell off $843,000.

The State Board of Transportation objects to the last question for the reason that it is not responsive to the answer, for the reason the witness has not given any tables of tonnage for the first six months of the years named.

Q. Go on and state the general results?

A. The earnings fell off $843,000 in the first six months of 1893, and the last six months of 1893 the earnings fell off at the rate of a million dollars a month, and the total decrease of earnings in 1893 was $7,000,000 less than it was in 1892.

Q. Was there a proportionate loss on the local business in this state?

A. That was the effect of all the business, all over the system, in every division, and in every state the business was affected alike in about the same proportion.

Q. Including this state?

A. Yes, sir.

Q. I can tell you in about a minute what the difference of the tonnage was in the years 1893 and 1892.

Q. Can you give the last half year of the year 1893 and the last half of the year 1892?

A. I can get it, but I have not got it in any memorandum with me.

Q. Will you make it and hand it to the examiner and have it inserted?

A. Yes, sir, I can have it made. There is a decrease of 43,000,000 tons handled in the State of Nebraska in the year 1893 compared with the year 1892, a decrease of 43,000,000 tons hauled one mile, and a decrease of $7,000,000 in earnings.

Q. What is the valuation, as near as you are now able to state it, of the machinery in the shops of The Union Pacific Railway at Omaha and other shops in this state?

A. I would not be able to give you the exact figure; I thought you spoke in general of the mileage, cars, locomotives and the shops in general when I said it was about $20,000,000. The total equipment of the Union Pacific consists of 1,026 locomotives and about 26,000 freight cars and nearly 800 cars in the passenger equipment, and that with the equipment and value of the shop tools runs up to the neighborhood of above $20,000,000. We have that information as to the value of all of the tools in the shops in the State of Nebraska.

Q. Will you furnish that figure to be inserted as an answer?

A. Yes, sir; I will.

By Mr. Webster:

When that is furnished I want the witness here, because I want to cross-examine about it.

CROSS-EXAMINATION.

By Mr. Webster:

Q. Mr. McConnell, you used a memorandum when you were giving answers about the engines purchased?

A. Yes, sir.

Q. Will you allow me to inspect that memorandum from which you have testified?

A. Yes, sir.

Q. Who prepared this memorandum?

A. I had that prepared this morning and taken from our records in the office, in the office of the superintendent of motive power, from the records there showing the cost of each individual locomotive.

Q. What you mean by that is simply you had some one copy it from the books and you bring it here, and from this memorandum you give these answers?

A. I examined the books myself, and to refresh my memory I bring that here.

Q. In April, 1868, you were not in charge of the motive power of The Union Pacific Railway System?

A. I was in the employ of the Union Pacific here at Omaha, not in April—in October.

Q. You did not have charge of the motive power of The Union Pacific System at that time?

A. No, sir; not at that time.

Q. In 1874 you did not have charge of the motive power of the Union Pacific?

A. No, sir; I was master mechanic at North Platte.

Q. In 1881 what was your situation?

A. I was master mechanic at North Platte.

Q. And where in 1883?

A. At the same place.

Q. North Platte?

A. Yes, sir.

Q. And in 1886?

A. I was in Omaha.

Q. In what capacity?

A. As master mechanic of the Nebraska division.

Q. And in 1888?

A. I did not have charge of the mechanical department; I was engaged in other services for the company at that time.

Q. In 1890?

A. In 1890 I was engaged in special service for the company.

Q. Then during the years that are covered by your answers, as to the sums of money paid for engines, you were not in charge of the motive power of The Union Pacific System?

A. No, sir.

Q. And during these years it was not your duty to buy engines?

A. No, sir.

Q. And you did not buy them?

A. No, sir.

Q. So what you have said on the subject of the amount paid for engines and the submission of bids and of competitive bids and all that—

A. Is a matter of record with us in the office, in my office.

Q. All you know about that is what you have read on the records?

A. Yes; pretty good evidence, isn't it?

Q. Well, I don't know until I would see the records.

A. I believe that is the way most people get their information, from somebody else.

Q. Well, do you mean to say that it was a matter of record that in 1868 the company that furnished engines for $7,900 had no engines to make at that time?

A. Yes, sir.

Q. There is no record of that, is there?

A. No, sir; no, I know that from personal conversation with the agent who was here at the time they were making the bids, the agent of the Brooks Locomotive Works; I was talking with him about the price of their bids, and he told me the reason of that was they had no work in their shop, and they took that bid at cost.

Q. That was not a matter of record, then?

A. No, sir.

Q. Now, did you put down in this list a statement of all the engines that were purchased by The Union Pacific System between April, 1868 and 1890?

A. O, no, I just took five of a class, I think you will find there is five engines of each class there, is there not? I looked the record over and I told the clerk to just take five engines of each class off the book there, to give them to

me as a memorandum of the price the company paid for locomotives at that time.

Q. Do you mean from that this price put down here was the price paid for each of those locomotives actually, or this price was the average price of five engines of that class?

A. No, that was the actual price for every engine of that class at that time.

Q. Now, for instance in 1868, you have a memorandum of eight-wheel locomotive, 34 tons, now did you buy in that year according to the records, any other locomotives of any other different weight or different size?

A. No, I think all the engines they bought that year were 16 inch cylinders.

Q. Do all the 16 inch cylinders weigh 34 tons?

A. Some of them weigh less.

Q. If they should weigh less than 34 tons, the price would be less?

A. No, sir; they are not sold by the weight.

Q. Does the weight have anything at all to do with the price?

A. Not the weight of the same class of engines; the engines may vary a little in weight; no two engines weigh the same in the same class, but you go into a different class of engines, with larger cylinders, and that increases the weight of the engines; if you will notice there the last engines on the list weigh 80 tons; those are the largest engines that are built in this country.

Q. Then in 1890, when you paid $11,650 each for 80-ton engines, you may state if that was the highest price paid for any engines in that year?

A. I think that was the highest price, for that was the largest engines the company bought.

Q. They bought smaller engines in 1890?

A. Yes, I think they bought some 18-inch cylinders and some 19-inch cylinders in 1890. I think they bought some engines that weighed 60 tons.

Q. All the engines you have set down for the year 1890 are 10-wheel engines?

A. Yes, sir.

Q. Do you mean all the engines since the first of 1890 were ten-wheel engines?

A. No, sir; there were ten eight-wheel engines bought in 1890 or 1891.

Q. Do you know what they cost?

A. No, sir; I could not tell from memory.

Q. Well, why did not you set down in this table the smaller sized engines—the eight-wheel engines, instead of putting down therein for that year only the ten-wheel engines, which would be more expensive?

A. Because the company bought—the last contract they made for locomotives, I think, was 131 locomotives, and out of that lot I think 90 of them were those ten-wheel engines, and I think in the lot of 131 there was ten of them that were eight-wheel engines.

Q. Ninety ten-wheel engines, did you say?

Q. Now, getting back to what I am trying to get at, that is, whether you do not pay more wages per mile for running an 80-ton engine, wherever it may be run, than you pay for running a 50-ton engine?

A. Yes, sir; we have got eighteen 80-ton engines; we have got in the neighborhood of two hundred 50-ton engines?

Q. So that these 80-ton engines, for which you pay a higher rate of wages for the running thereof, are engines that have been purchased within the last three or four years?

A. Yes, sir; purchased in 1890.

Q. Prior to 1890 your largest engines were 50 and 54-ton engines, were they not?

A. No; we had some that run 55 and some in the the neighborhood of 60 tons.

Q. You no not have any such in this list you have spoken from to-day, prior to 1888?

A. That is not the list of the engines the company had; I just made that memorandum showing the cost of the different engines.

Q. It cost you more to run a 65-ton engine per mile than it does to run a 55-ton engine per mlle?

A. O, yes.

Q. These 65 and 80-ton engines are principally used on the line west from Sidney?

A. Yes, sir.

Q. And from that west into Wyoming?

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A. We have some two or three 60-ton engines on the Republican Valley.

Q. And what are the sizes of engines you run on the main line of the Union Pacific between here and North Platte?

A. They are what we call our standard engines, 18 by 26, 8-wheel engines, 50 tons.

Q. Eighteen by twenty-six cylinder?

A. Yes, we have some 18 by 24 engines.

Q. And those 8-wheel engines, 18 by 26 cylinder, 50 tons, are the ones you report here as costing $7,900.00?

A. They run from $7,900 up to $9,300, I think you will find here.

By Mr. Woolworth:

Q. What engines do you run from North Platte to the river?

A. We run the same class of engines from Omaha to Sidney, and from Sidney west we run 10-wheel engines, 60 to 65 tons; we have 10-wheel engines in service between Sidney and Cheyenne. Now, Mr. Webster, we pay the same price for running those 50-ton engines in Nebraska that we did fifteen or twenty years ago for running 30-ton engines, the wages are the same.

By Mr. Webster:

Q. When you speak of the net earnings per mile in 1883, as compared to the net earnings per mile in 1893, you used a tabulated statement from which you testified?

A. Yes, sir.

Q. Will you allow me to see that statement from which you testified on that subject?

A. Well, there is some information there I do not care to have you have, but I can give you a copy of the particular part I testified to, if you do not object to that. This is information I got for my own use from the auditor's office, and it has some other matters in not connected with this.

By Mr. Woolworth:

Q. And to which you did not testify?

A. No, sir.

By Mr. Webster:

Q. You have not charge of the auditing department of the road?

A. No, sir.

Q. You have not charge of the freight department?

A. No, sir.

Q. Nor of the passenger department?

A. No, sir; I am just the hired head of the locomotive department.

Q. So your knowledge of the freight department and the passenger department from which that table or computation was prepared is limited to the information you get from the records or from what other people have told you?

A. Yes, the same information they would give you, and you would get it.

Q. It is not a matter of which you have personal knowledge?

A. I got it from the information derived from the returns, the same as they would give it to you or anyone else.

Q. All you have said on that subject was nothing more or less than any other man might testify had he in his possession a copy of that report?

A. The information I have given is the same you would get from the general freight agent, or the general passenger agent, or the auditor; I asked this information from the auditor not to be used here, but to be used in connection with the trial before Judge Caldwell, that and a good many other matters I had to testify to in that case.

Q. Then, that is not a computation made by yourself?

A. I said made by the auditor.

Q. Who is the auditor that made that statement?

A. I believe they call him Erastus Young.

Q. Have you any doubt about that being his name?

A. No, I hav'nt any doubt about it, have you?

Q. No, I have not. Well, as you have no personal knowledge on that subject and have testified only from data furnished to you from the auditing department, and as you decline to submit to me for inspection the document from which you so testified, I do not know that I have anything to ask you about, until you are prepared to submit to me for my inspection the statement from which you have given these answers?

A. I am not prepared to do that now, Mr. Webster, because I think there is some information here that does not concern this case at all, and is mixed up with the other.

Q. Are you willing to allow me to inspect the statement from which you testified as to the number of tons of freight hauled a mile?

A. Yes, sir. I had that compiled for my own information down in the office.

Q. Who compiled that statement?

A. A gentleman by the name of Baker.

Q. From what documents did he compile that statement?

A. He compiled it from information collected from the auditor's office; that may interest you, too.

Q. When you speak of the auditor, you mean the auditor of The Union Pacific Railway Company?

A. No, I mean the auditor of The Union Pacific System.

Q. Why did you only testify from the column showing the number of tons hauled one mile for the last six months?

A. That was all I was asked the question on?

Q. Was that to make the larger discrepancy between the number of tons hauled one mile in 1893 than for the number of tons hauled one mile in 1892?

A. I could not answer that question. Mr. Woolworth asked the question; he can probably give you his reason for asking it.

Q. I see by this same tabulated statement that the total number of tons hauled one mile in January, 1892, was 205,305,063; now the number of tons hauled one mile for the same month in 1893, was larger, to wit, 219,911,647, was it not?

A. Before you go any further—

Q. You answer this question before you go any further?

A. Yes, sir; that is right. Now, I can give you a little information that may help you in this matter. For the first six months in 1892 the car mileage was 130,000,000 miles; for the first six months in 1893 the car mileage was 140,000,000 miles, and the tons of freight carried one mile was 60,000,000 more than it was in 1892; with that increase in car mileage and the increase in tonnage hauled, the earnings of the company fell off $843,000, comparing the first six months in 1892 with the first six months in 1893.

Q. In 1892 was the year of poor crops, was it not, in Nebraska?

A. Well, I could not say, I am not a farmer.

Q. Is it not a matter of common knowledge that in 1892 there was an almost entire failure of crops in Nebraska?

A. It may be; 1892 was a prosperous year for the Union Pacific taking it all the way through.

Q. I am asking about the crops?

A. I don't know; I am not a farmer.

Q. This column in this tabulated statement, headed "Total freight," aggregating for the year 1891, 302,135,108, represents what?

A. That represents freight car mileage; this represents the passenger car mileage.

Q. In the year 1892 the total freight mileage was about the same as 1891, to wit, 301,087,538?

A. Yes, sir; there is the total, 302,000,000 against 301,000,000.

Q. Now, let us see the freight mileage per month for 1892 and 1893; was it not larger in January, February and March, 1893, than it was in 1892?

A. It would appear so from those figures.

Q. And was it not larger in April, 1893, than it was in April, 1892?

A. Yes, there is 19,000,000 miles in 1892 against 21,000,000 miles in 1893. Mr. Webster, while you are on this subject, I testified a little while ago the car mileage increased 10,000,000 miles for the first six months in 1893 over the first six months in 1892, and the earnings fell off $843,000.

Q. Yes, I know you told me that; I have not asked about that yet?

A. I was afraid, Mr. Webster, you would forget that.

Q. Let me go on with my line of examination a minute?

A. All right, I will do anything you want.

Q. Was not your mileage of freight hauled in May, 1893, greater than it was in May, 1892, by about 600,000?

A. Yes, sir.

By Mr. Woolworth:

Q. What is that?

A. Car mileage.

By Mr. Webster:

Q. Now, for 1893, I see you have not completed this column, by leaving out the month of December?

A. Yes, sir.

Q. So that you do not have the sum total for 1893 to compare with 1892?

A. No, sir. Would not you like to compare that to see the difference between the mileage upon the last half of 1892 and 1893?

Q. As you seem impatient about it, I will call your attention to the month of November, 1892, and November, 1893, and ask you if in 1893 it was not 27,000,000 miles to 29,000,000 miles in 1892?

A. Those figures indicate that.

Q. And in October it was 30,000,000 miles in 1893 to 31,000,000 miles in 1892?

A. Yes, sir.

Q. In September, 1893, 22,000,000, and in 1892, 31,000,000 miles?

A. Yes, sir.

Q. Is it not a fact that the sum total of mileage in 1893 for all the months set down in this table is greater than for all the months in 1892?

A. No, sir.

Q. Figure that?

A. The December mileage is not in there.

Q. I know that, leaving that out, leaving December, 1893, out, is not that greater than for the year 1892?

A. It seems to me I told you, a little bit ago, we made 10,000,000 more car miles in 1892 than we did in 1893.

Q. I repeat my question, does not this tabulated

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A. Ninety-one.

Q. That would leave about forty that were not ten-wheel engines?

A. Well, they bought some six-wheel switch engines, and some eight-wheel engines, and I think those large engines—those consolidation engines, were bought in 1890.

Q. How extensive are the records you would require to have examined to select therefrom the list that you have put down on this paper, and about which you have testified to-day?

A. Well, we have a book that gives the individual number of each engine that the company has purchased right up to the last purchase the company made of engines.

Q. That is all found in one book, is it?

A. Yes, sir.

Q. So that the examination would not be extensive to ascertain?

A. I could have gotten the price of the 8-wheel engines, the last that the company bought, but in running over, just to get a memorandum of the engines, I did not happen to think of the 8-wheel engines, that is all; and we bought some 6-wheel engines at the time, which the price is not in here; and the company bought some narrow-guage engines, too.

Q. That record being all in one volume, Mr. Dilworth might go down, and with the aid of one of your assistants, or some man in charge, if you please, would you allow him to make from that book a list of all the engines

purchased at the different dates down to the present time, with the price of each engine?

A. I do not see any objection to it; do you see any objection to it, Mr. Woolworth?

Mr. Woolworth: No, sir; I do not.

By the Witness: I do not see any objection to it, Mr. Webster; but it is not necessary to have each individual engine, the one class of engines might represent fifty engines and the same price would be paid for each engine at that time. Now, if the company would order fifty standard locomotives at one time, they would ask all the locomotive builders to bid on those engines, and they would be built from specifications; there might be two or three hundred dollars difference on the different bids, and there might be a difference of $500, and it would depend on which company would furnish the engines first and that company being able to furnish them first, from the fact of the company needing the engines, would probably get the bid, or contract.

Q. I will ask Mr. Dilworth to go with you at a time that is convenient, to make such a list, arrange them under classes that you think will show the number of engines bought for this period of time, and the class of such engine, and the price, and date, and such statement, when prepared, to be put in evidence?

A. There is no objection to that, to your having that, but this covers about the class of engines we use, except the switch engines and narrow guage engines.

Q. The 1026 engines that belong to The Union Pacific System, cover what roads?

A. I should have to take the report of the directors to give you that, because I cannot tell you all of them from memory.

Q. Do you mean that covers all the roads?

A. That covers the entire system, taking in the Union Pacific, Denver & Gulf and the Ft. Worth & Denver Railroad.

Q. And the Union Pacific main line, and the Kansas Pacific?

A. Yes, sir.

Q. And the Omaha & Republican Valley?

A. Yes; and the Oregon Short Line, and the Utah & Northern, and the Oregon Railway & Navigation line, and the Echo & Park City, and there is a whole number of little short branches that all go in The Union Pacific System; I think there is twenty-five or thirty of them altogether.

Q. Covering what extent of mileage?

A. Covering in the neighborhood of 7,700 miles; the mileage in 1893, to be exact, was 7,690 miles.

Q. Do you know how many of these 1026 engines belong to The Union Pacific Railway Company as distinct from those that belong to The Union Pacific Railway System?

A. I can not give it to you from memory; the annual report gives that.

Q. I will call your attention to the report to the State Board of Transportation, as set down on page 377 of the printed report, giving the whole number of engines at the end of the year as being 534, and ask you if that is correct?

A. I presume this was furnished by the Union Pacific, I presume it is correct.

Q. I desire to call your attention to another statement in the same report on the same page, to the effect that 158 of those engines were leased to the Union Pacific, and I ask you if in your opinion that was a correct statement?

A. Well, they are leased in this way; they are what we call trust engines.

Q. My question was whether they were leased, not how they happened to be leased?

A. They are trust engines; some of the equipment of the Union Pacific was bought and is practically owned by a trust. Now the Union Pacific pays a certain portion of the amount of those locomotives each year, together with the interest, and at the expiration of a certain number of years the locomotives then belong to the Union Pacific and the trust is discharged. We have a number of cars in the same way, and it is a common thing, a common practice on a certain number of roads all over the country to own trust equipment, leased from trust companies in the same way. A number of locomotive builders furnish locomotives, and they put on a trust plate on them in that way.

Q. Now, the 190 engines which you say belong to Nebraska, includes a proportionate part of what are classified in this report as leased engines?

A. I guess you did not understand me. I said it took 190 engines to do the service on the Nebraska division; I did not say the Nebraska division owned 190.

Q. My wording was unfortunate; I understood what you meant.

A. It takes 190 engines to do the work of the Nebraska division.

Q. My question is whether a portion of those engines used on the Nebraska division are engines that are classified in this report as leased engines?

A. No doubt some of them are leased engines. I wish to make another explanation. Now, some of the engines that may be assigned to the Union Pacific proper, may be in service on the Oregon Railway & Navigation Company, or they may be in service on the Oregon Short Line, or on the Union Pacific, or on the Utah & Northern; the engines belonging to each individual corporation are not confined to that division.

Q. The lines of road to which you apportion the 190 engines, include the Omaha & Republican Valley Company of how many miles?

A. The Nebraska division contains, I think, 1,200 miles of road.

Q. Well, do you know the number of miles belonging to the Omaha & Republican Valley?

A. Not from memory, I could not give it to you exactly; no, sir; that is all a matter of record.

Q. Is there not operated, under the name of the Omaha & Republican Valley, 575 miles?

A. I could not tell you, that is all a matter of record; I am not familiar with the figures.

Q. And the Union Pacific main line through Nebraska is 463 miles, is it?

A. Well, it is from the Missouri River to the whistling post east of Pine Bluff, whatever that distance is; the Nebraska line is about the whistling post east of Pine Bluff; somewhere in that neighborhood.

Q. I have it about right, have I not; 467?

A. Somewhere in that neighborhood; I think it is 417 miles to Sidney, and then to the east whistling post at Pine Bluff, that is the Nebraska line.

Q. Now, the Julesburg line that you spoke of, how many miles?

A. That is not in Nebraska, that is Julesburg, Colorado. Are you trying to figure the amount of mileage in the State of Nebraska?

Q. Yes, sir.

A. I think you can get that from the "Annual Report" here. The Omaha & Republican Valley Railway, published in here, is 482.05, that is for 1891. The mileage here is given as 7,681; that is, there are other lines in which the Union Pacific has an interest, making a mileage altogether of 8,157 miles, that includes the central branch of the Union Pacific, which is leased to the Missouri Pacific; and the Montana Union, and the Manhattan & Burlington and the Topeka & Southwestern.

Q. Mr. McConnell, your heaviest engines are used more especially over the mountain divisions, are they not?

A. Yes, sir, the heaviest engines are used between Cheyenne and Laramie, and we have some consolidation engines, 60-ton engines, on the Republican Valley Road.

Q. Now, when you spoke of the wages of engineers and firemen in 1883 being 6.37 cents per mile?

A. Yes, that is the cost per mile for engineers' and firemen's wages.

Q. In 1893, you put it 9.19 cents per mile?

A. Yes, sir.

Q. How do you account for that increase of nearly 50 per cent?

A. From 1883 to 1893, 44 per cent. We account for it in a number of ways—the introduction of new schedules on The Union Pacific System, and new rules, allowing the men an opportunity to claim time for service they do not perform, and the system of paying excess mileage, for which the men do not render any service, the bringing into the system of different lines with a higher rate of pay, and the fact that the Union Pacific pays a higher rate than any of the neighboring lines; all these things together go to make up that increase.

Q. That simply, then, makes an increase of wages paid, depending entirely on the increased demand of these class of mechanics?

A. It is owing to the abuses of the labor organizations.

Q. Then it has nothing to do with either the traffic or class of engines used on the road?

A. Yes, sir; on our larger class of engines we pay higher wages; we pay $3.85 a day for running eight-wheel engines in the State of Nebraska.

Q. Then that larger engine will haul a greater number of tons of freight, or a greater number of passenger cars?

A. The larger engines are not used in Nebraska, the smaller engines are used in Nebraska; an 8-wheel engine will take as many cars to Sidney as a 10-wheel engine will take away, and a 60-ton engine will take as large a train to Cheyenne as an 80-ton engine will take away; we pay $4.00 for 100 miles on the 10-wheel engines west of Sidney, and $4.25 on the consolidation engines running between Cheyenne and Laramie.

Q. This table you speak of is not a table of wages paid in Nebraska, but on the system?

A. Yes, sir; can give you that for Nebraska.

Q. What I want to get at is, when you speak of those figures, this increase from 6.37 cents in 1883 to 9.19 cents in 1893, is not that, then, brought about by the fact that in 1893 the Union Pacific used heavier engines than it used in 1883?

A. No, sir; it is brought about entirely by the company absorbing new lines with higher rate of pay, by the introduction of schedules of the engineers and firemen, and the introduction of new rules by the payment of excess mileage, paying the men more miles than they actually run; then, the rules give them the opportunity for claiming time which they do not work.

statement show the mileage of freight hauled for the first eleven months of 1892?

A. I do not know; I have not footed that up; you are figuring on car mileage now.

By Mr. Woolworth:

No, sir; he did not ask that before; he asked freight hauled.

Mr. Webster objects to Mr. Woolworth constantly instructing the witness how to answer questions. Mr. Woolworth says he does not instruct the witness at all.

By Mr. Webster:

I will insist on Mr. Woolworth's remarks being taken down until I get my answer.

By the Witness:

I have tried to get that December statement a number of times, but it is not yet compiled, so that I have not got that complete.

Q. You have a column in this table headed "Total Cost per Mile;" that means the total cost of hauling what per mile?

A. I do not know which column you have reference to.

Q. I will show you?

A. That is the cost per mile that the locomotive runs.

Q. That is the total cost per mile?

A. That is total cost per mile, as far as the locomotive department is concerned.

Q. Now, I see that in January, 1892, that is 28.44 cents.

A. Yes, sir.

Q. For the same month in 1893 it is 27.22 cents, a reduction of 1.22 cents in 1893 over 1892?

A. Yes, sir.

Q. Now, I see in February, 1892, it is 29.5 cents, and in 1893 it is 27.72 cents; that is nearly 2 cents less in February, 1893, than in February, 1892?

A. Yes, sir.

Q. Now, in March, 1892, it is 28.89 cents, and in March, 1893, 28.50 cents, or .49 of a cent less in 1893 than in 1892?

A. I guess that is right.

Q. Now, in April, 1892, it is 27.41, and in April, 1893, it is 26.76 cents?

A. Yes, shows good management.

Q. Shows you run your engines for less money in 1893 than in 1892?

A. Yes; what I have been trying to do for four years.

Q. In September, 1892, it was 26.51 cents, and in September, 1893, it was 25.02?

A. I guess that is right.

Q. Now, in October, 1892, 26.17 cents, and in 1893, 24.91 cents?

A. Yes, sir.

Q. That shows, does it not, by comparison of the cost per mile that your engines were operated for less money in 1893 than they were in 1892?

A. Yes, sir.

Q. Economy?

A. I can give you a whole lot more of information on that subject.

Q. What did you include in the cost of running an engine one mile, as set down in these various figures in this table?

A. It is the cost per mile of the wages of engineers, firemen, hostlers and wipers, the cost for fuel, for repairs and for all stores used, and for water.

Q. Taking all these things into account, you run an engine for less money in 1893 than you did in 1892?

A. That is what we have tried to do.

Q. You have succeeded, haven't you?

A. Yes, we have succeeded admirably; want to know how much money we have saved?

Q. I have not asked that. Now, Mr. McConnell, I wish to call your attention to another column set down in this tabulated statement under the head of "Work," making for the year 1891 5,441,084, and state what that represents?

A. That represents the mileage made by work trains service.

Q. Now, for the year 1892, the same column shows 5,700,533?

A. Yes, sir; about 300,000 more miles of work trains.

Q. 300,000 more miles in 1892 than in 1893?

A. Yes, sir; that does not represent anything, you know.

Q. It means just what it is set down to represent, doesn't it?

A. It means the mileage by work trains; now a work train does not mean a construction train.

Q. Will you answer here what it does mean?

A. It does not necessarily mean a work train; any work that is done outside of the regular work, freight service, is designated as a work train; what is commonly known in railroad circles as a work train is a construction train.

Q. Do you know how the auditor who furnished the data for this table arrived at the figures set down in this statement purporting to represent the number of tons of freight hauled one mile?

A. Do I know?

Q. Yes, sir.

A. I presume that he has taken it from the record.

Q. I do not ask you if you presume, I ask you if you know?

A. I will answer; it is taken from the records furnished by the different agents, and so on, along the line of road.

Q. You have no personal knowledge of the manner in which he computed these amounts?

A. Only a general knowledge.

Q. You have a column here representing the cost per mile for train service?

A. Yes, sir.

Q. One passenger service, and the other being freight?

A. Yes, sir.

Q. Does not that column show that the cost for freight service in 1892, was less than it was in 1891?

A. Yes, sir.

Q. The average cost for the whole year for 1891 for freight service was 3.05 cents per mile, and for 1892, it was 2.84 cents per mile?

A. That is right.

Q. So that the cost to the company for freight service in 1892 was less than it was in 1891?

A. Yes, sir; now this business here is the cost of the locomotive department service to those trains.

Q. Now, for 1893, in so far as it is set down in this tabulated statement, the cost for 1893 per mile was less than it was for 1892 or 1891?

A. Yes, sir.

Q. So that the expense to the company kept decreasing from the first of 1891 up to the close of this tabulated statement, to wit, November, 1893?

A. Yes, sir; that has been my object, to decrease the expenses in the department in which I was employed, I think I have succeeded.

Q. And in the passenger department there has also been a decrease in 1892 over 1891, and a further decrease in 1893 over 1891 and 1892?

A. Yes, sir.

Q. Now, you do not have anywhere set down in this statement the earnings, either gross earnings, or net earnings, from either the passenger or the freight service?

A. No, sir.

Q. Why have you not had this table made up relating to the mileage and cost of service down to the present time instead of having this table stop in November, 1893?

A. Well, I calculated to continue that, by the making up of the annual report; I have not been able to get these figures or the amount for December, 1893, from the auditor's office here. I have got to go with another sheet, and complete another sheet like this for 1894.

Q. I see you have handed me another paper here?

A. Yes; that is in the line I gave some information on some time ago.

Q. And on which I see the following statement, to wit: "Cost per mile all expenses, locomotive and cars," and then sub-head, "loaded freight cars in 1893, 1.99 cents, and for year 1892, 2.03 cents?"

A. That is right.

Q. That makes the expense in 1893 less than in 1892?

A. Yes, sir; it is about .04 cents less per mile in 1893 than in 1892.

Q. And for the passenger cars in 1892 6.98 cents, and for 1893 6.41 cents, being .57 of a cent less in 1893 than it was in 1892?

A. Yes, sir.

Q. In 1893 you hauled a greater number of cars per engine than you did in 1892?

A. Yes, the car mileage in 1892 and 1893 are about the same, but the engine mileage in 1893 shows a decrease of about 1,600 miles in 1892.

Q. That increase in engine mileage caused an increased expense to the railroad in its operation?

A. An increased expense and improved condition of the machines.

Q. Is it not true the expense has been further decreased since the appointment of the Receivers of The Union Pacific Railroad, which appointment was made in the fall of 1893?

A. It has only been decreased by a decrease in business.

Q. Has not your department kept up the same decrease in expense as shown in previous years?

A. The locomotive department has about 1,000 less men in it than we had a year ago, but all this decrease in expense took place before the Receivers were appointed.

Q. Then the appointment of the Receivers has not been of any benefit to the road to your way of thinking, on the question of expense? When you estimate that the value of all the equipment and tools was about $20,000,000 you meant to apply that to the entire Union Pacific System, did you?

A. Yes; to the whole Union Pacific System; I said that I could not give the exact valuation of our tools and

equipment in Nebraska, but I would furnish that to Judge Woolworth.

Q. When that comes in to be attached to your deposition I will want to examine you on that?

A. I will be glad to meet you on that question at any time.

Q. When you speak of equipment and tools, you have included in that estimate the machinery of the shops and whatever appliances there may be there for the manufacture of engines, etc?

A. Yes; that is the shop, tools and machinery, and equipment of cars.

By Mr. Woolworth:

Q. You have that?

A. Yes, we have that; we have it in the way of an inventory of each individual piece.

RE-EXAMINATION.

By Mr. Woolworth:

Q. What do you mean by car mileage?

A. The car mileage there would represent, that total would represent the individual mileage made by one car or the combined mileage made by all of the cars on the system?

Q. That does not assist you to determine either the cost or the earnings of the road?

A. It assists us to determine the cost of operating cars because the cost of the operation of the cars and locomotives is based on the miles they run. We have an individual

account with every locomotive and the expense of that locomotive is based on the mileage it makes, and our records show the engine costs so such a mile to operate it.

Q. But the car mileage?

A. And the cars, the mileage on the cars is taken—if you will notice there, it shows it costs so much a mile to haul a loaded freight car, and to haul a loaded passenger car.

Q. Don't the total car mileage include loaded cars?

A. Yes, sir; includes all of the cars, in the service, loaded and empty.

Q. Now, notwithstanding the decrease in the expense of operating the locomotives, I understand you to say that there was also a decrease in the earnings of the road?

A. Yes; for the first six months there was a decrease of $843,000, and then there was a decrease of a miliion dollars after that until the first of January.

Q. For what year?

A. Eighteen hundred and ninety-three.

Q. What is the reason for the decrease in the earnings?

A. The decrease in the rates, I think—the decrease in the first six months in 1893 was caused by the decrease in the rates in the northwestern country, and, in fact, all over the western country; the reduction in rates made by the Great Northern affected the rates on the Union Pacific all over Nebraska, and the reduction of rates all over the Union Pacific; there has been a gradual reduction from year to year.

Q. What did you have this statement made up for, Mr. McConnell?

A. For my own individual use, in order to post myself on the operation of the locomotive department from month to month and from year to year; that statement is worked on from month to month for the last eighteen months.

Q. And it is for the purpose of directing you in the management of your department?

A. Yes, sir; the transaction of my business, in order to compare one year and one month with another; in order to ascertain where I can reduce the expenses of the department.

Q. It was for that purpose this was prepared?

A. Yes, sir.

Q. Did you make up this statement yourself?

A. No, sir; I had it made up by one of the clerks in the office.

Q. In your office?

A. Yes, sir.

Q. It was made up under personal supervision, was it?

A. Yes, sir; by a man who has devoted his time to matters of that kind for the last twenty-five years in that office.

Q. Won't you state a little more particularly what a work train is?

A. Yes, sir; what is known as a work train, properly known as a work train, would be one that goes out to haul gravel or distribute ties, to lay steel; but the term work train

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is applied to a freight train that may go out and be engaged an hour or two in unloading cinders or unloading ties, and then go over the division in regular freight service; it has got to be a common term; many railroad men class a train of that kind as a work train that does anything outside of the ordinary business.

RE-CROSS-EXAMINATION.

By Mr. Webster:

Q. You did not mean, Mr. McConnell, did you, that when you spoke of the reduction of rates in the last two or three years, that there had been any reduction of the local rates on the Union Pacific in the State of Nebraska?

A. I spoke in a general way, the general reduction of the rates all over the country.

Q. Is it not true that on freight hauled locally in Nebraska there has been no reduction in the last two or three years?

A. That I could not say; I do not know anything about it, but I know that freight coming into Nebraska to local points, the rate is less.

Q. By that you mean inter-state rates?

A. Yes, sir; inter-state rates have been reduced.

Q. But not the local rates in the state?

A. No, sir.

T. E. CALVERT, sworn, testified in behalf of complainants, as follows, viz:

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DIRECT EXAMINATION.

By Mr. Woolworth:

Q. What is your name?

A. T. E. Calvert.

Q. What is your business?

A. I am superintendent of the Burlington & Missouri River Railroad in Nebraska.

Q. How long have you been in the service of that company?

A. About twenty-three years.

Q. State what branches of the service you have been in during that time?

A. In the construction department, first as resident, and later as chief engineer, and the last ten or eleven years in the operating department, as superintendent; also have charge of the construction department.

Q. How much construction work have you had charge of during this time?

A. Direct and indirect, 2,500 or 3,000 miles.

Q. Where?

A. In Nebraska, Colorado, Kansas, Wyoming and South Dakota.

Q. What have been your duties in respect of improving the track, roadbed, etc., etc.?

A. Well, I have charge of the track indirectly, and have had charge of the work of improving the roadbed, ballasting, putting in permanent bridges and preparing the

road bed to receive ballast, and such other improvements as were necessary.

Q. Look at this Defendants' Exhibit "26" and state what you have to say about that being a correct estimate of the cost of construction of one mile of roadbed and of the equipment on 100 miles of road?

A. I should say that some of the items here were rather low for construction in Nebraska generally. The conditions here are somewhat difierent in the different parts of the state. For instance, he estimates 16,000 cubic yards of grading; I think that quantity low. I think that a fair estimate would be about 20,000 yards; this would increase his estimate $560. Mr. Wakefield has not estimated any rock work or grubbing, or clearing, and that is quite an item in the South Platte country; I think that the estimate ought to be increased on an average say 500 cubic yards, at 80 cents, $400. We put in more ties than he does; he estimates 2,800 ties, we put in 18 ties to the rail, making 3,168 ties. His estimate for ties, 45 cents; he gets the ties, evidently, from the northeast country, and they come to the territory with which he is familiar cheaper than they do to the southern country, and many of the ties used in the South Platte country are oak, so that I should estimate the ties on our line at 55 cents, that being the average price at which they are issued from our store department; this would increase his estimate $482.40. We are putting nothing now less than 65-pound steel; some of our steel is 75 pounds to the yard; he estimates 60-pound steel; our steel

costs us about $33 a ton; the additional weight and cost over his estimate would be for a mile $349. The splices used by us are the standard on our lines, that is, the Burlington lines in Nebraska, and cost us an addition of $40 to the mile; the bolts are somewhat heavier, being seven-eights instead of three-quarters, being $17 to the mile. Spikes, we use more spikes because of using more ties; the additional cost for spikes would be $24. We use nut locks; Mr. Wakefield has estimated none; this would be $14. Our water stations would average thirteen miles apart; would cost us $3,500. One expense, our average lines run through territory where water stations cost more by reasou of the additional depth necessary to go, and, therefore, the average cost would be greater than in the territory with which Mr. Wakefield is familiar; that difference would make a difference per mile of $61. Our section houses cost us $800 instead of $600, as estimated by Mr. Wakefield, $29 a mile. Our freight locomotives that have been bought by us in the last few years are larger than those estimated in this estimate of Mr. Wakefield's, and cost us $10,400. They are considered the most economical machine, this makes difference of $95 a mile. I think the estimate on first class coaches is entirely too low, our first class common coaches cost us $7,600. He estimates $4,800. We have chair cars that cost us $8,500, but this is a common coach, and I will explain this, too, probably comes from the fact that our coaches are built very much more carefully than the common average coach, on account of it being necessary

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to run them in fast trains, and the trucks are made very much stouter than the average cars of a few years ago, I think none too strong for safe use. This makes a difference of $16.80 a mile. He has estimated 150 box cars for the 100 miles of road; I do not consider that enough; the Burlington have about from two to two and one-half box cars to the mile, and the whole Chicago, Burlington & Quincy System has as high as four, as near as I could get at it, and I think if he was to run his hundred miles of road without depending on his connections for rolling stock which I think in this estimate we have no right to do, he ought to have estimated 200 box cars, and these box cars which are purchased at this time ought to be equipped with air-brakes and couplers, as they will have to be under this new law, and that will make his box cars cost $615 each, that would make $480 a mile.

By Mr. Webster:

Q. Do you mean that much additional per mile?

A. Yes, sir; $480 a mile. His flat cars and stock cars I think, so far as numbers are concerned, are all right, but our stock cars cost us $550 each instead of $400. This is with all modern improvements, that would make $75 a mile; 100 flat cars are all right as to price as to common flats, but we would have to add $70 for automatic couplers and air-brake. He has no refrigerator cars, which he would have to put on his line as we have to furnish them, which would cost him probably $52.50 per mile, estimating six refrigerator cars. He has no wells at stocks yards where they have

no water stations. We are providing these now, and probably within two years all the stock yards at stations in Nebraska will have to be equipped with wells, tanks and windmills, which would cost about $38.40 a mile. He has no coal chutes for coaling engines, as I can see on this statement, a very necessary thing, and would cost him about $60 a mile. He has estimated his fencing here at $250 a mile. I presume he means that shall cover the whole line, but fencing in the South Platte country costs a little more, on account of the greater difficulty in getting fence posts, but I have not made any estimate on that, probably would not amount to very much per mile. We have to furnish the sleepers, sleeper cars and diners; I have not made any estimate on them. While we don't own our own sleepers, we have to pay rental on them, which will cost about the same.

By Mr. Woolworth.

Q. Can't you give the figures?

A. It would not be very great for a whole line of road, and it is pretty hard to approximate it to make an intelligent estimate of this kind. I would say about $80 a mile for sleepers and dining cars on the basis of the sleepers and dining cars used on the Burlington & Missouri River Railroad in Nebraska and the cost distributed over the whole mileage. The terminals he has estimated here, $200,000, would be ample in some cases, and other it would be, I believe, insufficient. If reasonable terminals were obtained in a city like Omaha and there were any terminals to be obtained on the other

end of the line amounting to anything whatever, it would amount to more than that, but on the average, I think that would be probably about right in such an estimate as this, to cover the thing generally.

Q. You take that to be an estimate of a railroad built and just ready for being operated, do you?

A. Yes, sir.

Q. Now, won't you give us what has to be done in the way of construction and improvement after the road has once been built?

A. There are a number of things for which money has to be expended after the road is practically ready for operation; take the matter of right-of-way on the Burlington lines; even after the right-of-way was supposed to have been completed there have constantly been coming up cases of defective right-of-way, some techinal error in the way of condemnation or some undiscovered judgment, so that I should estimate, without being able to give definite figures, that it has cost us on the Burlington & Missouri proper, up to date, since the road was originally built, nearly one-third of the amount originally expended in perfecting these imperfections as they have appeared. One thing that makes this larger than it would at first seem, when the road was originally built, lands that could be obtained for a comparatively small sum have increased very greatly in value, so that when a title after ten or fifteen years has to be resettled, the sum to be paid is very much in excess of the original, and it would cost, coming up now—would cost as

much as a settlement of ten similar cases at the time of the original construction. I have called attention in the estimate there, of some things that had to be fixed on the Burlington & Missouri, in connection with the stock yards, since the road was built. At the time the road was built stock yards to accommodate the business that would be naturally offered at that time at each of the stations where constructed. Since that time additions have been necessary to use as the business increased, and we have had to put in wells at points where we have no regular water stations, and windmills, and furnish other expensive accommodations of that kind as competition and the demands of business made them necessary. In grading a road in Nebraska, the Burlington & Missouri have made their grade fifteen feet on top; the ordinary method of building dirt roads, as we call them in this country, has been to lay the track down and bring it to surface and fill in between the ties with the material from the sides of the banks; so that even with a fifteen feet roadbed, as originally made, when finally finished the roadbed is no wider than necessary for the ties. The earth shrinks from five to ten per cent., and this additional earth, under the ordinary methods of construction, has had to be supplied after the shrinkage and after ballasting the sides of the roadbed, at a cost, probably of nearly double the original cost per mile of doing the grading, and I think that in keeping the bank up to its original shape, that is, so far as shrinkage and dirt necessary to ballast is concerned, costs from fifteen to twenty per cent.

of the original cost of grading. The cuts wash into the fills, and the fills wash down into the borrow pits, which is another item which tends to increase this. In one single cut near Rulo we have spent in two years $8,700.00 in taking out earth that has washed into it. I simply mention this one item; it is an extreme case, but it shows what has to be done in a construction way after the road is supposed to have been built. When ballast is put on the banks, or before ballast is put on, the roadbeds have to be increased to seventeen feet on top, so as to allow the track being raised sufficient to get the ballast under and to catch the slopes of the ballast after it has been put on. This has to be put in at a cost very much in excess of the original cost of grading, probably nearly twice the cost per yard, on account of its having to be hauled and spaded, and probably would add nearly 15 or 20 per cent. additional to the original cost of grading. Our water stations, even after they are supposed to have been finished and the road ready for operation, in this western country, have to be changed to a considerable extent on account of shortage of water in places and a bad quality of steam water in others, and I think, on the Burlington & Missouri in Nebraska, from the time the road was built till the present time, we have spent an amount nearly equal to the original cost of water stations in getting water at some points, and water of better quality at others, and as an illustration of the necessity for this better quality of water I will mention the fact that the average life of engine flues on engines on the Bur-

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lington & Missouri in Nebraska is a little less than two years, while on such roads as the Old Colony, and roads running through country where water comes from granite rocks the life of flues is from eight to ten years. On the Old Colony road they wash out a boiler from four to six weeks, while in Nebraska boilers have to be washed out after they have run from two or three to four hundred miles, which would be from one to two days. I simply mention this fact to show the difficulty of getting good water in this country, and it costs $495 to put a set of flues or boilers into our standard freight engines, so that it can be readily seen it pays to spend considerable money in order to get good water rather than to undergo the cost of renewing flues, and we have spent a great deal of money in that manner. And in ballasting, the only ballast we can get in this country, that is, that can be considered permanent, is rock and slag; we get some gravel, but it is not a good ballast; we burn some ballast, which, while good, is very expensive. I estimate it costs us about $2,500 a mile to prepare, haul out and put under, rock and slag ballast, and the burnt ballast, on account of the extreme cost of coal, costs from $2,600 to $2,700. As speed and tonnage increase on a railroad there must be a large increase in the number of yards; at Lincoln, in twenty years, the sidings have increased from less than two miles to about thirty-six; Crete, from about three-fourths of a mile to nearly three miles; at Hastings, where there was no town at the time the road was completed, we have now about ten miles of sidings. The old Omaha & Southwestern

had in about 1874, not much over one mile; they now have about fifteen miles of siding, and this is one of the very large items of expense in the construction account of a railroad after it is completed. All our railroads in Nebraska, when first built are built—I say nearly all our railroads in Nebraska when first built are built with wooden bridges; these have to be renewed with iron at about double the cost of the original bridge. These are only a few of the items that have to be charged to the construction account after the road is built. The question of iron and steel is quite an important item. When we bullt the line originally, we used 48-pound iron; that has been replaced until now we are putting nothing less, and buying nothing less than 65-pound steel; all that betterment ought to be charged to construction; as we are using a maximum weight of seventy-five, but not very much, I have taken sixty-five, the minimum, as a basis. On a new railroad, such as we have to build here, the question of ballast cannot be solved immediately, but has to be looked into. The first rail that is laid has to be taken out before, under ordinary circumstances, it would be worn out, because the rail is bent, so that the track can be got under, and the bank is shrunk, and some ballasting material is put under the worst places, and the original rail has to be taken out as soon as the roadbed can be gotten into shape, and generally a long while before it ought to be worn out; that is one of the items that costs to get a road into first-class shape, and I think that while there are a great many of our lines in Nebraska that are not in first-class shape and these amounts I

have spoken of have been spent on them, the additional amount which is necessary to put these roads in first-class shape, if capitalized, would more than fix them up, so in estimating or considering this question we ought not to consider anything but a road in first-class shape, because, as I have said, the amount additional of putting a road in operation, if capitalized, would more than pay for putting in ballast and fixing bridges in permanent shape.

Q. Can you give us the proportion of increase in the cost of and value of a road such as you have just described, and one just built and just about to be put in operation?

A. I think it would be from 33⅓ to 50 per cent. of the original cost that would have to be added to the construction after the road was put in operation for us to get it what we would consider in this wild, western country as first-class shape, that is putting fairly good ballast under the road, and not putting up expensive buildings, but putting it in good condition to operate.

Q. Did you have charge of the construction of what is called the Ashland Cut-off, the road running from Omaha to Ashland, and striking the main line at Ashland, and running through South Omaha?

A. Yes, sir.

Q. Can you tell us what the right-of-way cost?

A. Well, not from my personal knowledge, I think it is something in the neighborhood of $200,000, though I am not positive of that.

Q. When was that road built?

A. I can not give the date of that.

Q. Cannot you recall when that cut-off was built?

A. No; I cannot give you the year within one or two years; I cannot remember dates very well.

Q. Are you acquainted with the Missouri Pacific Railroad through this state?

A. I am not very familiar with it; I have ridden over it several times and know it in a general way; its general condition.

Q. State what it as when it was first built in respect to grades and general ıditions?

A. Well, I only know in regard to that so far as I have been told by the engineers, that the grades were from one to 1.25 in a hundred; that is, they raise one foot in a hundred to 1.25 in a hundred; the curves were from three to six degrees, but I am not familiar enough with the thing to swear positively in regard to those matters.

Q. What sort of a road was it when it was first built?

A. Well, if I am correctly informed as to grades, I should think it was not an average first-class road, so far as the grades are concerned, considering all the roads in Nebraska.

Q. What do you say about stations, sidings, terminals, etc.?

A. So far as sidings were concerned, I would think it was all right, but so far as I am informed there were no extensive terminals in connection with the Nebraska road; in fact, no terminals at all in connection with the original construction, as I remember it.

Q. Will you give us some account of the terminals of your road at Lincoln?

A. Well, we have in Lincoln, as I have already stated, about thirty-six miles of track; we have a passenger station worth about $70,000; a round house worth about $60,000; freight house worth about $35,000; shops at Havelock, near Lincoln, worth about $350,000; numerous other small buildings, aggregating probably $10,000, besides quite a large amount of ground, the area of which I am not now able to give, but it would be worth in round numbers—I would rather be excused from making that statement without consulting a map, because I would not venture to state, as far as the value of the ground is concerned.

Q. Did not the company get a large amount of ground from the state to use as terminals?

A. Yes, sir.

Q. How much was that?

A. About 700 feet by 1,500 in a body and a number of isolated—probably about 40 or 50 142 by 50 feet lots.

Q. Can you tell how many acres all this land comes to that the company got from the state?

A. I should say about thirty acres in round numbers, altogether.

Q. Do you mean those lots you mentioned make 30 acres?

A. Lots and lands and everything around Lincoln; I should say about 30 acres from the state at Lincoln.

Q. Can you tell what the value of that is now?

A. I should think that ought to be worth $6,000 an acre, as near as I can guess; that would be, to the best of my knowledge and belief—I don't pretend to be an authority on real estate—that would make $180,000.

Q. Well, Mr. Calvert, no such body of land as that for such a purpose could be got there, could it?

A. No, I don't think it could, but my basis of figuring is this: it takes six lots to make an acre, and that land would be worth, at the very lowest estimate, $1,000 a lot; I do not think it would be worth any less than that; some of it would be worth $4,000 or $5,000 a lot; in fact, we have paid recently, very near this property, $4,500 for a 25-foot lot, within a year; probably it might be worth half as much again as that, I should say certainly it would be worth that much for the state lands; of course this is only a small part of the total property there.

Q. Are you acquainted with the terminals at Omaha?

A. Yes, sir; somewhat.

Q. Do you know what the extent of those terminals are?

A. I could point them out on the map; yes, sir.

Q. Can you tell how many acres there are of them?

A. Not without figuring them out on the map; they are scattered so it would be almost impossible for me to tell now, although I have in my mind just where they are.

Q. Could a new company coming here secure any such body of land as you have for its terminals, as conveniently located as that, for any sum whatever; I mean within

reason, within anything that a railroad company would be willing to pay for terminals?

A. It seems to me the difficulty would be in getting terminals in such shape that it would be practicable to use it. The land that we have for terminals here was about the last that was left near the city that was in shape for using as terminals with any reasonable expenditure of money so far as getting it into shape for terminals was concerned, aside from the question of original cost.

Q. What do you say about your terminals at the principal places on your line, such as Crete, Beatrice, Hastings, McCook, and so on?

A. At Crete we have only a limited amount of land; at Hastings we have something like 80 or 100 acres right adjoining the town, that would now be worth a great deal of money; and, in fact, is about the only available land for railroad purposes that is not used for private purposes so near the center of the town; at McCook we have something like 320 acres; at Holdrege we have 320 acres; at Beatrice we have probably not over 25 acres, but it is right in town, and very valuable property, in fact there is no land in Beatrice anything near the center of the town that would be available on account of the topographical condition there, except what we have, and the Union Pacific, that could be got by an outside road. At Alliance we have also large grounds, and also at Ravenna, Seneca, the division points on the Black Hills line.

Q. Where is Ravenna?

A. Thirty miles northwest of Grand Island on the Black Hills line.

Q. Did you build that Black Hills line?

A. Not as chief engineer, but indirectly had charge of it, the chief engineer reported to me.

Q. You were directly connected as the superintending engineer of the work?

A. Yes, sir.

Q. Where does it run?

A. From Ravenna, Seneca, Alliance, Crawford, to Edgemont, where it divides, one branch runs up into the Black Hills, into Deadwood; another branch runs from that line to Spear Creek; the main line continues from Edgemont to Sheridan and Newcastle.

Q. Are you able to state what it cost per mile to build it?

A. No, sir; it is heavy work; heavier work than we have been speaking of to-day.

Q. You mean heavier than you have been speaking of?

A. Yes, sir; I have confined my figures to Nebraska.

Q. That is in Nebraska?

A. Part of it; I mean to Sheridan, most of it is outside of Nebraska.

Q. How does the work on that road compare with the roads in the South Platte country?

A. O, it is some of it about the same; some of it is very heavy and some of it light. We have on that line a tunnel which is about seven or eight hundred feet long, cost-

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ing $70,000; taking it all in all I think it would average us about the figures I have been giving for the lines in Nebraska.

Adjourned until 9 A. M. to-morrow, April 19, 1894.

OMAHA, THURSDAY, April 19, 1894, 9 A. M.

Pursuant to adjournment, the further taking of testimony is resumed as follows, viz:

CROSS-EXAMINATION OF T. E. CALVERT.

By Mr. Hastings:

Q. Mr. Calvert, where do you reside?

A. In Lincoln.

Q. And you are connected at the present time with the Burlington & Missouri Railway?

A. Yes, sir.

Q. Formerly, I believe, you were connected with the Atchison & Nebraska Railway?

A. No, not until it became a part of the Burlington & Missouri.

Q. How long have you been connected with the Burlington Railroad?

A. About twenty-three years.

Q. In what capacity?

A. First as resident engineer, afterwards as chief engineer, and the last ten years as general superintendent,

in charge of the road as superintendent, and indirectly in charge of construction work.

Q. That you have with the construction work is an indirect rather than a direct one?

A. Yes, sir; we have a chief engineer who reports to me.

Q. And in your examination yesterday you testified, I believe, that the estimate for the amount of yards per mile of grading, made by Mr. Wakefield, was rather small?

A. I think so; I did testify to that effect.

Q. You have lately constructed several lines of road in the state in the South Platte country, one I believe from Culbertson to Imperial?

A. Yes, sir.

Q. Now, could you give me the number of yards of grading done on that line per mile?

A. I cannot give the exact quantities, but I should think it would run probably twelve to fourteen thousand yards per mile, that being an extremely light line. As an illustration of quantities, I would say that in building up an almost level valley with no cuts the grading ought to be two or three feet above the general surface to make it for operation an economical maintenance, and that under the most favorable circumstance it takes 12,000 yards to the mile with a 15-foot roadbed.

Q. You would say the grading on that line was only from 12,000 to 14,000 per mile?

A. Yes, sir.

Q. Now, the line running from DeWitt to Holdrege was constructed by the Burlington & Missouri within the last few years?

A. Yes, sir.

Q. Could you give me the amount of grading per mile on that line?

A. No, sir; I can not; I have not those figures; while part of that is comparatively light other parts are quite heavy, and I should guess probably between 17,000 and 18,000 yards, as near as I can guess.

Q. Now the other line, from Odell south, I do not remember what you call that?

A. Concordia. That line is a pretty expensive line, in that there is so much rock on it.

Q. Is that rock within this state or Kansas?

A. There is no solid rock in this state, but there is some loose rock, and that part in Nebraska is the cheapest part of the line.

Q. It is more expensive in Kansas after you strike the stone work than in this state?

A. Yes, sir.

Q. Can you give me the approximation of grade on the line in this state, from Odell south.

A. Yes, sir.

Q. The name of the road is the Chicago, Kansas & Nebraska?

A. In Kansas or in this state.

Q. In this state?

A. I cannot give it exactly, I should guess it is probably 20,000 yards to the mile.

Q. The line running from Central City to Burwell and Arcadia, that is north of the Platte River, when was that line constructed?

A. Four or five years ago.

Q. Can you give me an approximation of the amount of grade on that line?

A. From Central City to Burwell, I should think that would run from 10,000 to 17,000 yards to the mile.

Q. Can you tell on that line how many ties there are to the mile?

A. Originally it was built with seventeen ties to the rail, but we have been inserting additional ties; we have been laying our road with eighteen ties to the rail for about three years.

Q. On the branch lines?

A. Yes; all lines we have built for the last three years.

Q. Can you tell us how many ties it would make to the mile, seventeen to the rail?

A. It would be probably about 3,000.

Q. The last line that was built by your company in this state, I believe, was the line from Culbertson north to Imperial, or northwest?

A. Yes, sir.

Q. Do you know how many ties were laid in that line to the rail?

A. I could not say positively as to that line; it was as much as seventeen.

Q. Do you remember the weight of the iron or steel that was laid on that line?

A. That was second-hand steel that was taken out of other lines, and it varies from 56 to 60 pounds.

Q. Now, this 65-pound steel that you mentioned yesterday, that is for first-class equipment, is it not?

A. We are buying no steel for any lines less than 65 pounds, but are using the old steel taken out of the main line, putting it into branches.

Q. Is not this a fact, that all of your branch lines are iron with steel that is less than 65 pounds?

A. Well, it depends on what we would consider as branches.

Q. I am considering the main line from Omaha by way of Lincoln to Denver, that is what I am terming the main line, is that correct?

A. That is one main line, but we have considerable 66-pound steel on the line of the Nebraska Railway.

Q. That is the line from Kansas City to Denver, is it?

A. That is the line from Lincoln to Seward, and up that way.

Q. The Alliance branch?

A. Yes, sir; I will say where this second hand 56 and 60-pound steel is put in the additional cost of keeping it up capitalized would amount to as much really as the cost of new 65-pound steel, but, as we cannot sell this second hand steel to any advantage we have to use it in branch lines.

Q. Will you explain what you mean by the term you have used, the "additional cost capitalized"?

A. Probably we would have to use one or two men more to the section to keep that line up than we would to keep up new steel, that would cost us at the rate of $36 per month per man, or $72 a month, or between $800 and $900 a year, while the interest on the additional cost of putting in new steel would not amount to that much.

Q. Is it not a fact that the 65-pound steel that you have recently been laying, you have laid in order to accommodate your fast trains on the main lines of your road; was not that the object?

A. No, sir; we have made a universal thing of buying nothing but this heavy steel, not lighter than 65-pound steel, and we are buying and putting on branch lines this year 75-pound steel; not in Nebraska, however; this is in Wyoming, on a coal line.

Q. You spoke yesterday of a tunnel on one of the lines of your road, costing $70,000; whereabouts is that tunnel located?

A. It is in Dawes County, in this state.

Q. Is that through rock work or earth work?

A. Through rock work; through a loose rock that had to be timbered, costing us more than if it had been rock work, because if it had been solid rock it would not have had to be timbered.

Q. On yesterday you spoke of the water stations and additional expenses you were to for supplying stock yards,

etc., with water; is that charged, are such items as that charged to construction, to the construction account, or operating expenses?

A. I am not able to swear from my own personal knowledge as to the charge made, but I am quite positive it is charged to the construction account.

Q. Is that charged to the construction account in older roads that have been operated for some time, or is it charged to construction when first put in?

A. On old roads that are constructed, before putting in an improvement of that kind, we have to get authority of the directors, make an estimate of the amount necessary, and they make the appropriation, and it is charged to the construction account, as I understand it.

Q. Could you tell me what makes up the items of your operating expenses?

A. It would be like naming the sands of the sea, almost.

Q. What I was getting at was the shrinkage you speak of on the roadbed itself, and putting in cinders and slag and baked clay, etc., as ballast—the betterment of the track, is that charged to construction or operating expenses?

A. Part to construction and part to operation.

Q. Which part to each?

A. I am not able to state positively, but my impression would be that the shrinkage, the keeping up of the shrinkage of the roadbed is charged to operation, but it is one of the items that have to be gone through, and the road

is that much better at the end of twenty years than it would be when new; that the additional earth put on to widen the roadbed ought to be charged to construction.

Q. But you do not know whether it is or not?

A. I am not positive as to that.

Q. You speak of your first-class passenger coaches costing you $7,600?

A. Yes, sir.

Q. Are those coaches used on the main line or on the branches?

A. On the branches, the main line coaches are in the form of chair cars and cost $8,500.

Q. Now, in locomotives, also, you put your cost, I see at $10,400?

A. That is what we have actually paid.

Q. Your freight cars at $480?

A. I think freight cars at $615.

Q. Yes, I guess you are right. Now, when did you buy locomotives last?

A. In 1892.

Q. Now, was that you purchased, is that a part of your duties as general manager?

A. No, sir; it is not.

Q. Who is the party that does that buying?

A. Those engines are purchased by the purchasing agent of the Chicago, Burlington & Quincy, in Chicago.

Q. Who gives you the items of the expense?

A. I obtained these items from the auditor who audits the account when paid.

Q. These expenses for coaches?

A. Yes, sir.

Q. And freight cars and flat cars and stock cars, etc., you obtained those items from the auditor?

A. Yes, sir.

Q. Where is he stationed?

A. Omaha.

Q. What is his name?

A. James G. Taylor.

Q. These items I have named, the expense of them all you know about it is the statement you receive from the auditor?

A. Yes, sir.

Q. You say the last purchase you know of was made in 1892?

A. I think so; I think those engines were delivered, however, in 1893.

A. On page 165 of the Sixth Annual Report of the Board of Transportation, for the year ending June 30, 1892, in the report of the Burlington road to that office, I discover this item: "Expended for locomotives, $356,009.00; passenger cars, $46,645.00; freight cars, $328,870.00.

Q. And on page 176 I discover that there was altogether 26 locomotives, from the same report, added; is that report correct?

A. I do not know as to that, but I could explain that, possibiy; those reports might not convey the information you suppose they do, because we pay for those things in partial

payments, according to delivery, and the part of the expense might have gone into one year and the engines might have been purchased in another.

Q. And I discover on page 176 of the report 25 cars added to the service on the Burlington road during the year 1892?

A. The probabilities are the cars were delivered in the year before and the partial payments made the next year.

Q. But the number of cars appears to have been added during the year 1892—of 25—by this report, I observe?

A. I am not able to say, positively.

Q. By this same report, on page 176 I discover you added in freight cars, including box and flat cars and stock cars and coal cars, 700; do you know whether that is correct or not?

A. No, I do not.

Q. Now, could you tell me, Mr. Calvert, whether or not the amounts on page 165 that I gave you a few moments ago is the amounts expended by the Burlington Company for locomotives and passenger and freight and flat and coal cars for the year 1892?

A. I could not tell you, because those payments are not made in conjunction with the delivery of the cars; the cars might be delivered in 1891 and the payments made in 1892.

Q. If the cars were delivered in 1891 would the item appear in the report of added during the year 1892; what is the fact?

A. I do not know anything about that report. I had dothing to do with making that report up, so I could not say positively in regard to it.

Q. That report is made up in the auditor's office of your company, is it not?

A. I think it is finally summarized there and made up from outside, from various sources. The figures I have given for engines, box cars, stock cars and coal cars are figures that are paid for the last cars bought. The figures given for additional cost of flat cars is simply the cost of putting on air-brakes, which would have to be considered in connection with the perfect car under the existing conditions.

Q. You are using much heavier equipment on the line of the Burlington road in the State of Nebraska than you did in former years, are you not?

A. Yes, sir.

Q. And that heavier equipment, both in engines and in cars, and in track, etc., has been occasioned by the increase of your speed and the increase of traffic over the road, has it not?

A. No, sir; the incentive for a greater increase in the weight of cars and engines is the necessity for cheaper operation on account of the great reduction of rates, and the increase of tonnage; the greater weight of engines on passenger trains is due to the increase in business and increase of speed.

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Q. What is the average length of box cars used on the system at the present time?

A. The box cars are about thirty-four feet.

Q. What kind of box cars were you using on the Burlington when you first commenced?

A. About twenty-eight feet.

Q. What kind of engines, locomotive engines?

A. When I first came to the Burlington, 23 years ago, we were using engines, with 16 by 24 cylinders.

Q. What would be their worth?

A. I could not tell you about that.

Q. What kind of engines do you use on the main line of the Burlington road now in this state?

A. All the new engines we are buying at the present time are 19 by 24.

Q. Now, with the increase of the capacity of the engine and the increase of the capacity of the car, you can do more service with the same crew and with one engine?

A. Yes, sir.

Q. That lessens the cost to the company?

A. Yes, sir; so far as the track is concerned, it increases the cost of the road, in that bridges have to be strengthened.

Q. It increases the cost of equipment and lessens the cost of operating expenses?

A. Yes, sir.

Q. That has been for a number of years the policy of your road, as well as the general policy of the roads in this state, so far as your knowledge extends, has it not?

A. Yes, sir.

Q. Now, the sleepers and the diners are not owned by the railroad, are they?

A. The diners are owned by the road, the sleepers are leased, and we have to pay a rental for them. The Chicago, Burlington & Quincy do own some sleepers, I do not know whether they do now or not, they did.

Q. Such as are used on this side of the river are rented, are they?

A. Yes, sir.

Q. That is done, I suppose, for the accommodation of the patrons of the line?

A. Yes, sir.

Q. The item of coal sheds, $60 per mile, is that about a fair, average amount of the cost of coal sheds on your line in this state?

A. Yes, sir; I should consider that that was the average cost, although we are now building no coal sheds except the Kerr chute shed which cost nearly $90 a mile.

Q. Now, in the estimate that was made by the engineer Wakefield, to which your attention was directed yesterday, he has the item of $359.14 for a station house. On the average line of road in the State of Nebraska, would that amount not only build the station house, but include all the appliances and appurtenances, such as coal sheds?

A. I doubt whether it would, in view of the fact that some station houses costs a great deal more.

Q. You have a station house at Lincoln that would?

A. I mean just taking the average, I doubt if it would.

Q. Is it not a fact that the Burlington line in this state is equipped much better than any other line that is doing business in this state, I mean, appliances, such as station houses, and weight of the iron used, and equipments of the engines and cars, etc., better than any other line unless it be the main line of the Union Pacific?

A. As far as station houses are concerned, I think not. As far as weight of iron is concerned, I doubt if we are very much above the average. As far as equipment is concerned, engines, etc., it is possible we have, considering the speed we make, it is possible we may be a little more careful than some roads are, I think we are not unnecessarily more careful.

Q. Is it not a fact that the Burlington also run heavy fast trains over the main line?

A. No more so than any other of the through lines.

Q. What would you say then, that for the fair average mile of road in the state, outside of the main line of the Burlington of the estimate that was made by Mr. Wakefield, as to engines and passenger cars?

A. Well, I should think Mr. Wakefield's estimate for freight engines, passenger engines, are all right for freight engines, and first-class passengers cars he is too low, and if he puts on the finish the public expect in his passenger coaches, and makes the trucks of sufficient strength to ensure safety, and builds his engines large enough for economical operation, he is to low.

Q. You spoke yesterday of the sidings along the line of your road at Lincoln, at Crete, at Hastings and at other points having been very largely increased, will you tell us the occasion of the increase of those sidings?

A. Well, some of the sidings are made necessary by reason of the irregular condition of the traffic, for instance, we have a great deal of business that will take all of our cars and keep them in motion, and at other times almost an entire suspension in traffic, which makes necessary places to store the cars; we must have places to store these cars in order to have them to accommodate the public when there is a demand for them, that is one item of increase, and another is the natural increase in business and additional tracks necessary.

Q. One of the large items that has occasioned that has been the increase of business, has it not?

Q. Is it not a fact, Mr. Calvert, that the amount of the earnings on a railroad company operating its line is very largely dependant upon the amount of tonnage carried by the road?

A. That is one of the items.

Q. Is that not one of the principal items?

A. If you carry double the tonnage at half the rates, every dollar you take off your rate takes so much off your net earnings, unless you can by economy counteract it; that is what we are trying to do by better roadbed, larger engines and larger cars.

Q. Your estimate of 33⅓ per cent. additional that is placed on a road after it has gone into operation, it is made up of the items of the betterments, such as the surfacing of the track and the ballasting, etc.?

A. Partially so, but there is one item I forgot yesterday, where a betterment is something that cannot well be foreseen, and that is the question of rip-rapping; that is a question that seems to be lost sight of by Mr. Wakefield, and which I had forgotten, and would probably average on the Burlington & Missouri in Nebraska, between $75 and $100 a mile; the rip-rapping in the eastern part of the state is not so much, but in the western part of the state it is more expensive.

Q. The principal part done by the Burlington road is along the Platte River north of Plattsmouth?

A. No, sir; every bridge opening has to be rip-rapped sooner or later; between here and Ashland we rip-rapped the banks with slag for a distance of probably two and a-half to three miles last year; that is one of the items, I say, that cannot be foreseen, and many of the items are betterments, no doubt.

Q. The work that is put upon a line of road, that is upon the roadbed, such as the labor of the section men, and the laying of new ties, and the laying of new iron in case of iron being worn out; that is charged to operating expenses, is it not?

A. The labor; yes, sir.

Q. The material, such as I have named, is charged to what?

A. The increase in weight of steel is charged to construction.

Q. In laying new steel where the steel is worn out?

A. If the steel is the same weight as that worn out, it is charged to repairs.

Q. Now, in your estimate of the cost of freight cars, etc., that you made yesterday, that was not made from your report of business ending June 30, 1893, was it, Mr. Calvert, the cost of freight cars, etc.?

A. The cost of freight cars I gave was the actual price paid by us for the last cars of those different classes purchased.

Q. That includes the first-class equipments of all kinds, the Janney coupler and the air-brake, etc?

A. Yes, sir.

Q. Do you use that kind of couplers and air-brakes on your line?

A. Not altogether, but we are replacing them constantly and expect within the time specified by Congress to have them all replaced.

RE-DIRECT EXAMINATION.

By Mr. Woolworth:

Q. What do you say about the improvements that have to be made on the branches or that you have made on your branches?

A. Anything that is added, that is in the way of the betterment over and above that which was originally built

should be charged to the construction account, but any repair to the existing construction in renewals to the original timbers should be charged to repair.

Q. What have you had in that respect on your branches?

A. This heavy equipment, and heavy engines and higher speed has necessitated in our trestle bridges the putting in of an additional stringer under each rail; instead of three on a 16-foot space we now have to put in four, increasing that one-third. The ties have not been doubly increased in Nebraska, but the foot-board which we have on the decks of our bridges has been a little more than doubled, not because the bridges were too weak but because they were too limber, and also because we were getting a little too near the margin of safety for the high speed we have to go.

Q. What have you had to do in the way of planking out the bridges?

A. That is additional timbers have been put in widening the bridge; instead of 10-foot ties we are putting in twelve now; all new bridges are made in that way and all renewals.

Q. Well, the labor; while the labor, etc., of betterments made a charge to operating expenses, ought all those items to be taken into account in ascertaining what it would cost to reproduce your property?

A. I should certainly think so.

Q. Do you know, of your own knowledge, irrespective of what you have got from the auditor, what prices have been paid for cars of different kinds?

A. No, sir; I do not.

Q. Your attention was directed by General Hastings to certain particular lines in your system, what do you say as to there being an average of the cost of work on your lines?

A. Those special lines he has enquired about are below the average, in that that they have very little or no rock on them, and they are less than the average line we have built; for instance, the Table Rock to Red Cloud, which is probably an average line in that it is partially a divide line and partially a valley line and is very much above the average in cost of grading and quantity, and considerably above those figures I have given, I thought that would be probably an average line, and the yards of grade on that average 23,000 a mile. From Plattsmouth to Ashland the main line was built at a very large expense on account of the very large amount of rock that had to be moved; there are other lines that had a large amount of rock, whereas, the lines mentioned have little or none. The price assumed by Mr. Wakefield for earth and which I have assumed fair for earth at the present time, is very much below the average price which has been paid for earth work on the Burlington west of the Missouri River, we have paid as high as twenty-six cents per yard for earth and over a dollar for rock on the line from the Missouri River west in the early

days, and the bulk of our lines have been built for a price above sixteen cents per yard for earth.

RE-CROSS-EXAMINATION.

By Mr. Hastings:

Q. But that price you speak of, sixteen cents for the moving of earth, has not been paid by the company for some years, has it?

A. Well, within a very few years, for instance the line from Nebraska City and Nemaha City, around through DeWitt to Beatrice, cost sixteen cents, and the line from Table Rock west cost sixteen cents, and the bulk of our lines that have been built up to within five years have been sixteen cents and over.

Q. But during the past five years it has been a less price?

A. Yes, sir.

Q. Could you give us about the amount that you are paying, for instance on the last line you have built?

A. In Wyoming?

Q. No; in this state.

A. About fourteen cents; I don't think we have let any contracts for less than fouteen cents.

W. A. DILWORTH, recalled.

By Mr. Woolworth:

Q. Mr. Dilworth have you prepared the table I asked you about?

A. Yes, sir.

Q. Will you produce it?

A. Yes, sir.

Q. The statement I show you is the statement you prepared in answer to my request?

A. Yes, sir.

Q. I call your attention to the second and third columns; do you mean by that the taxes and interest in this state, I notice you do not state that.

A. Yes, sir; the taxes; and it is apportioned to this state.

Mr. Woolworth offers in evidence the tabulated statement referred to above, which is marked Exhibit "9" and is hereto attached.

Objected to by the State Board of Transportation as incompetent, irrelevant and immaterial.

The attached is a copy of Exhibit "9".

JAMES G. TAYLOR, recalled.

By Mr. Woolworth:

Q. As auditor of the Burlington & Missouri River Railroad Company, have you made a statement showing the original cost of construction of the Burlington & Missouri, its equipment, the amounts expended after the completion of the road in construction and equipment, also original cost of the Omaha & Southwestern, the amount expended after its completion in construction and equipment, also cost of the Omaha terminals, also cost of general office buildings and grounds in Omaha, also the cost of the right-of-way on

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the line from Omaha to Plattsmouth by way of South Omaha, also cost to the B. & M. of the A. & N. in Nebraska, and the three bridges in Nebraska, at Plattsmouth, Nebraska City and Rulo?

A. I have made such a statement, or had it made under my supervision.

Q. Is that statement correct?

A. It is.

Q. Have you that statement here?

A. I have it, and submit it herewith.

Q. Do you submit it as an answer to an inquiry into these several items, do you?

A. I do.

The following is a copy of the statement submitted by the witness, which is also hereto attached, marked Exhibit "10".

Exhibit 10.

(Copy.)

BURLINGTON & MISSOURI RIVER RAILWAY.

Original cost Dec. 31, 1872—		
Construction	$6,247,191.18	
Equipment	466,628.38	$6,713,819.56
Expended to end '93—		
Construction	2,149,681.19	
Equipment	2,333,141.90	4,482,823.09
		$11,196,642.65

(195.47 miles.)

OMAHA & SOUTHWESTERN RAILROAD.

Original cost		$917,755.32
Expended to end '93.		
Construction	$1,101,374.50	
Equipment	266,280.00	1,367,654.50
		$2,275,409.82
(46.93 miles.)		
Cost Omaha Terminals		$786,314.23
Cost of general office building and grounds		111,886.76
Right-of-way, Omaha to Ashland (29.50 miles) 12 acres to a mile ($62.00 per acre)		219,751.90
Cost to B. & M. of A. & N. R. R. in Nebraska only		3,423,892.97
(107.71 miles.)		
Cost Plattsmouth bridge in Nebraska (1 mile)		$370,017.09
Cost Nebraska City bridge in Nebrrska (1 mile)		298,655.05
Cost Rulo bridge in Nebraska (1½ mile)		548,572.07

Burlington & Mo. River
Auditor's office
April 18, 1894.
R. R. in Neb.

Q. You may give the cost of these several items.

A. Can I submit that statement as my answer?

Q. Well you may read from it?

The State Board of Transportation objects to this matter as irrelevant and immaterial, and for the further reason that the best evidence of the cost would be the original records and not a mere computation prepared by some other person, and produced here and read from by this witness, as

thereby the State Board of Transportation is deprived of the opportunity of examining the accounts.

A. On the Burlington & Missouri road the original cost up to December 1st.

Q. State what line that is?

A. On the Burlington & Missouri road, that is the line from Plattsmouth to Kearney Junction, the original cost up to and including December 31, 1872, was, for construction, $6,247,191.18; for equipment to the same date, $466,628.38, being a total of $6,713,819.56. The amount expended since that date and to the end of the year 1893 for construction is $2,149,681.19, and for equipment $2,333,141.90, making a total for construction since December 31, 1872, expended for betterments and equipment, $4,482,823.09, or a total on the 195.47 miles of main line of $11,196,642.65. The original cost of the Omaha & Southwestern Railroad was $917,755.32, and there was expended to the end of the year 1893 in addition for construction $1,101,374.50; for equipment, $266,280.00, or a total of $1,367,654.50, or a total on the 46.93 miles of $2,285,409.82. The cost of the Omaha terminals was $786,314.23; of the general office buildings and grounds $111,886.76; the cost of the right-of-way from Omaha to Ashland, 29½ miles of road, $219,751.90. The cost of the Burlington & Missouri road for the Atchison & Nebraska road in Nebraska, 107.71 miles, was $3,423,892.97. The cost of the Plattsmouth bridge in Nebraska, 1 mile, that is the part of

the bridge in Nebraska, $370,017.09; the cost of the Nebraska City bridge in Nebraska, 1 mile, $298,655.05; the cost of the Rulo bridge in Nebraska 1½ miles, $548,572.07.

Q. Do you remember when the Omaha terminals were bought?

A. A part of them, that is those depot grounds near Mason street were purchased in 1872, the freight terminals in Omaha, at the foot of Douglas, Farnam, Harney and Howard and other streets were purchased I believe in 1880.

Q. Have those grounds appreciated in value since their purchase?

A. Yes, sir; greatly.

Q. Can you give us any idea of how much?

The State Board of Transportation objects to this question for the reason that it is not the proper way to prove the value of this property.

A. Judging from the prices we paid in 1880, I should say the property, judging from the present basis of values, had appreciated from eight to ten times; that is, of course, an estimate only.

Q. What do you say as to the appreciation of the general office buildings and grounds?

The State Board of Transportation objects to this question for the reason that it is not the proper way to prove the value of this property.

A. I should say the general office building and grounds were not worth as much as they were ten years ago, not

worth any more than they were ten years ago. Business has left that part of town and we cannot rent the lower stores as readily.

Q. When was the right-of-way acquired on the line from Omaha to Ashland, of which you have spoken?

A. I believe it was in 1887; 1886, it might have been.

Q. What do you say as to the appreciation of such property between that time and the present?

The State Board of Transportation objects to this question for the reason that it is not the proper way to prove the value of this property.

The State Board of Transportation further objects for the reason that it does not appear that this witness is competent to testify on this subject matter.

A. I should say the property was much more valuable covered by the right-of-way west of Tenth street to South Omaha; as to the appreciation, I could not form an estimate of that.

Q. Can you state generally what the extent of your terminals at South Omaha are?

A. If my memory serves me, we have 40 acres there.

Q. What did that property cost?

A. I do not know, do not remember.

Q. Will you make up and file with the examiner a statement of the terminals of your company showing the number of acres, cost, time of purchase or acquisition, and also including tracks on such terminals at Omaha, Platts-

mouth, Lincoln, Crete, Beatrice, Hastings, Columbus, Grand Island, and other towns in the state where the value of such property forms a considerable item in your assets, and file it as a part of this your deposition?

A. Yes, sir; I can do it.

The State Board of Transportation objects to the presentation and filing of any such exhibit for the following reasons: First—It is not a statement from any books which are proper to be introduced in evidence. Second—Such statement is a mere compilation from books of which it does not appear that this witness has any knowledge whatever, except as he may find the entries made therein. Third—If the books are competent for any purpose, the books themselves are the best evidence. Fourth—We have a right to cross-examine the witness as to any such tabulated statement to ascertain how it came to be computed and by whom made, and as to such other matters as it may be proper to inquire of.

By Mr. Woolworth: The plaintiffs say in answer to the objection, that in asking the witness to prepare and present such statement he is following the course which has been pursued all along during this examination, particularly by the defendants, and that the witness will be offered for cross-examination upon the matter shown by such statement after it has been prepared.

The State Board of Transportation stated that when the defendants have offered a statement it has been one compiled from the books of the adverse party, to wit: the railway company, while at the present instance the plaintiffs propose to make a statement from their own books, instead of ours, the difference in which is quite marked.

Q. Can you state the cost of construction and equipment of the several lines of road in your system in this state?

A. I can.

Q. Give it, if you please?

A. The total cost of construction and equipment of all C., B. & Q. lines in Nebraska to December 31, 1893, was $74,616,526.02, which includes the original cost and the amount expended since the first completion of the line, or more properly, when the lines were turned over to the operating department.

Q. Well, you may go on and give the different roads?

A. May I not put this right in as testimony?

Q. Yes, sir.

A. They are as follows: (See page 980.)

Q. State what is the rolling stock on the system in this state?

A. Do you wish it given in detail?

Q. I wish it given in detail, and I wish it given each item distributed to the different roads forming a part of the system in this state?

A. They are as follows: (See page 981.)

Cost of construction and equipment of C. B. & Q. lines in Nebraska to December 31st, 1893.

	ORIGINAL COST.	EXPENDED SINCE COMPLETION OF LINE.	TOTAL.
B. & M. & R. V. Construction	$30,351,110.46	$6,380,761.97	$36,731,872.43
B. & M. & R. V. Equipment	3,594,526.35	2,893,605.85	6,488,132.20
Plattsmouth bridge, ½	318,080.53	51,936.56	370,017.09
O. & S. W.	1,324,439.05	694,690.77	2,019,129.82
O. & N. P.	1,921,472.59	220,994.42	2,142,467.01
Nebraska City bridge, ½	280,017.73	18,637.33	298,655.06
A. & N.	3,304,973.97	356,402.55	3,661,376.52
Rulo bridge, ½	481,126.03	67,446.04	548,572.07
L. & N. W.	848,267.52	99,784.24	948,051.76
L. & B. H.	2,935,140.42	.....	2,935,140.42
G. I. & W. C.	7,738,750.62	150,427.53	7,889,178.16
C. N. & K.	127,407.88	6,031.31	133,439.19
R. V. K. & S. W.	115,788.12	12,734.18	128,522.30
O. & K.	824,210.18	105,116.80	929,326.98
N. & C.	6,176,781.79	302,159.15	6,478,940.94
R. V. & W.	692,671.95	.....	692,671.95
C. M. & W.	49,903.70	.....	49,903.70
Neb. Ry.	1,849,922.84	321,205.58	2,171,128.42
	$62,934,591.73	$11,681,934.29	$74,616,526.02

Burlington & Mo. River Railroad in Neb.
Auditor's office, April 14, 1894.

1300

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Statement of rolling stock on Nebraska lines.

DESCRIPTION.	B. & M. 195.47	O. & S. W. 46.93	O. & N. P. 80.78	Neb. Ry. 137.83	A. & N. 108 64	L. & N. W. 73.49	L. & B. H. 157.88	G. I. & W. C. 352.64	R. V. 551.99	C. N. & K. 5.28	R. V. K. S. W. 8.50	O. & K. 59.61	R. V. & Wyo. 49 17	N. & C. 430.71
Engines	74	12	6	6	16	3	4	36	68	1	2	1	2	21
Passenger coaches	25	5	6	6	7	2	2	15	38	....	....	1	1	13
Dining cars	1	....	....	....	....	....	....	....	1	....	....	....	....	....
Baggage, mail and express cars	14	4	4	6	6	2	4	7	17	....	....	....	1	9
Caboose cars	25	3	3	5	7	1	1	21	29	....	....	1	1	11
Box cars	774	105	105	163	190	26	22	613	876	3	3	26	17	337
Stock cars	314	42	43	67	77	11	14	248	355	1	1	11	6	138
Flat and coal cars	469	64	64	98	115	16	20	372	530	2	2	16	10	204
Refrigerator cars	16	2	2	3	4	1	1	12	18	....	....	....	....	7
Other cars	9	....	....	....	1	....	....	1	4	....	....	....	....	....

Burlington & Mo. River R. R. in Neb.
Auditor's Office, April 18, 1894.

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Q. I understand that this is the rolling stock in this state?

A. In this state, only.

Q. I wish you would prepare a statement of the purchases of different classes of rolling stock since 1888, showing what you have paid for different classes of rolling stock, the date of purchase, general description of the character of such stock, and present the same here, so that the defendants may make such cross-examination and inquire into its correctness as they may desire?

CROSS-EXAMINATION.

By Mr. Webster:

Q. Mr. Taylor, when you were testifying as to the original cost of the various lines of the C., B. & Q. in Nebraska, you were using a memorandum from which you answered the questions, were you not?

A. Yes, sir.

Q. That was a memorandum taken from what?

A. From the general books and records, which is an abstract in every case of our vouchers.

Q. Who kept the books from which this abstract was made?

A. The books are kept by about ninety different men.

Q. And in what departments of the road?

A. In the auditing department; the general books proper, are now kept by a man named Mullen.

Q. Now, for an illustration, I observe that you state the cost of construction of the B. & M. to December 31, 1872, to be something more than $6,000,000; who made that computation?

A. I kept the original books myself at that time; I was bookkeeper at that time; I kept the original books.

Q. That is not what I asked you; I asked you who made this computation of $6,000,000 or more?

A. Mr. Pennell made that abstract from the accounts.

Q. Did Mr. Pennell prepare all that is on this memorandum which you have used when testifying to the cost of construction?

A. He compiled that under my direction.

Q. It was not prepared, then, by yourself?

A. Personally, no.

Q. And when you have been answering questions as to the cost of construction and as to the cost of equipment, et cetera, you have testified from the memorandum prepared by Mr. Pennell?

A. I have testified from the figures compiled by him from our general books and records.

Q. When was the Burlington & Missouri road first opened for operation?

A. The first fourteen miles was opened in the spring of 1870; I believe it was in the month of March. It was opened to Lincoln in the middle of July, 1870; it was opened to Kearney, I believe, in the fall of 1872, but it was opened to Harmon in 1871, and was completed over the Platte River to Kearney in 1872.

Q. Now, in this item of cost of construction of that road, do you include the terminals that belong to that road?

A. Yes, sir; in every case.

Q. Then your terminals at Lincoln are included under the head of cost of the B. & M.?

Yes, sir; except in case of the property we acquired with the Nebraska Railway and the Atchison & Nebraska; we have a little property acquired there which is charged to those roads.

Q. And wherever that was it was so included in your statement of the cost of construction of those roads?

A. Yes, sir.

Q. Now, the fact is, is it not, that the most of those terminals at Lincoln, that is the ground upon which your terminals were located, was given to the road by the State of Nebraska; was not that so, and it did not cost your company anything?

A. No; part of it was given; part of it was acquired during the last ten or twelve years by the expenditure of large sums of money.

Q. Was there not thirty or forty acres of that ground given to your company by the state?

A. I do not know the amount given; there was some given.

Q. In 1872 you were acting in what capacity?

A. I was clerk then in the assistant treasurer's office, and was acting cashier; I kept the general books and the voucher book, as we called it, and took charge of the cash.

Q. Where are the books which will show the cost of construction of the B. & M. to December 31, 1872?

A. They are in my office in Omaha.

Q. How came it that you brought here this memorandum instead of bringing here the books showing that cost of construction?

A. Well, the books would fill about five or six cars; we have I think twelve vaults down there, and they are all filled with books.

Q. Do you mean Mr. Pennell went over these twelve carloads of books to prepare this statement you have here?

A. No, sir; he took it from abstracts and statements or trial balances, our general books are totals from trial balances?

Q. Why did you not bring here the books which Mr. Pennel used in making the compilation which he prepared for you?

A. We could do that, if that was necessary.

Adjourned until 2:30 P. M.

OMAHA, April 9, 1894, 2:30 P. M.

Pursuant to adjournment, the further taking of testimony is resumed as follows, viz:

CONTINUATION OF CROSS-EXAMINATION OF MR. TAYLOR.

By Mr. Webster:

Q. The item under the head of "Expended to end of 1893 in construction" on the line of the Burlington & Missouri, to wit, $2,149,681.19, means a sum total of all that

has been expended on that line of road from the year 1872 to the year 1893?

A. For construction purposes.

Q. Now, what did you include, or what is included in that item?

A. Extra right-of-way, ballast, the substitution of heavy rail for light rail—that is, the difference between the cost of the heavy rail and the light rail—the new shops at Havelock, new shops at Plattsmouth, or additions to present shops at Plattsmouth, and other items which I cannot recall, but those are the main items; I believe that would include the approach, the big cut to the Plattsmouth bridge, but of of that I am not positive; there is a million little items I cannot recollect.

Q. Well, where you would remove the light rails and put in heavier rails, do you mean that the cost of the new rails is put in this item for additional construction?

A. No, not exactly that; it would be the difference between the cost of the original rail and the cost of the new rail, that is, the original rail might have been fifty-six pounds, the new rail might be sixty-six pounds; if the new rail cost more than the old rail we charged the difference; the chances are in many cases that it cost less, inasmuch as the road can buy rails for less now than it could twenty years ago; in that matter a charge would be made to construction.

Q. Would there be any reduction in that case?

A. No, I think there could not be, possibly, because in taking the light rail up it would be credited to operating items.

Q. And in case of ballasting, you have entered in that account and included therein all sums of money expended for ballasting since the year 1872?

A. You can see all the items of ballasting are included, inasmuch as the item of 1872 does not include any ballast; it is a mud track, it was a mud track for several years, up to probably ten years ago, less than ten years ago.

Q. Have you not found it necessary from year to year in different localities to renew the ballast?

A. No, never; I don't think there has been an ounce removed; I have not heard of it; it would be charged to repairs anyway.

Q. The item of equipment, amounting to $2,000,000 and over includes what?

A. Engines, passenger car equipment, freight car equipment, equipping old freight cars with air-brakes, and with the Janney Coupler.

Q. All new engines and all new cars purchased since 1872 are included in this item of equipment?

A. No, sir; we have renewals, a great deal of equipment, freight car equipment, especially, which is charged to operating. That is car No. 7 is burned out, that was originally charged to equipment; we replace that car and charge it to operating expense current; but when new cars increase the equipment they are charged to equipment, that is if we have 3,200 freight cars on hand to-day; say there is 150 of those broken up and burned up, we replace those and charge them to operating, but if we replaced those beyond

that number, 3,200, say to 4,200, that is charged is equipment, and in turn when those cars are burned up or replaced that goes into operating.

Q. What is the life of a freight car?

A. Well, it is supposed to never die; it is impossible to tell; they are supposed to never die, but we are supposed to keep a certain number alive.

Q. You mean by replacing it you keep it alive?

A. Yes, sir.

Q. I am asking you what is the average life of a freight car?

A. I cannot tell you that, but it would be like the average life of a building; you would probably replace the running gear one year and the next year the top and the sides, and, in fact, you build it over.

Q. Do you know what is the average life of a locomotive engine?

A. I have heard it stated fifteen years, but we have now —I know some we have had for twenty-four years, and they are in good repair now, in use hauling trains, and are probably as good as engines ten years old.

Q. Whenever you have purchased new engines, the cost of all such new engines are included under this head of "Additional equipment up to the end of 1893"?

A. No; I would not want to say that, inasmuch as I know there are two engines that are entirely destroyed, and whether those numbers were replaced or whether they are still vacant I do not know. There was No. 2, I know was

destroyed, and No. 5; I think those numbers are still vacant, but I am certain they are not charged to equipment; I am certain of that.

Q. Who is it keeps the accounts and determines what shall go under the head of equipment and what shall go under the head of operating expenses or repairs?

A. We have certain inflexible rules which we live up to.

Q. Are those rules in printed form?

A. No; I believe not; we have what we call a distribution of accounts book, but it is made up of masses of letters and instructions of different kinds; I do not believe there is a complete code of by-laws on the road for the governing of accounts. I think I should add that, if I was to charge anything to equipment or construction that was outside of the regular rules, that we are always notified by the Chicago office—the home office, to give authority for this, and to show why it should not be an operating account. We render a monthly statement to them, and for every construction item we would be obliged to show an authority for the charge of so many dollars, and we cannot make a charge unless we have that authority.

Q. These shops at Havelock, that are included in the item of additional construction to the Burlington & Missouri, are shops at which you make and repair rolling stock for your entire system in Nebraska?

A. No, sir; we do not construct there; the Havelock shops are for heavy engine repairs.

Q. Then, you mean by that, that instead of constructing cars and engines there, you make repairs there, and repairs for the equipment of your entire system in Nebraska?

A. Yes, sir; over the entire system west of the river; understand, it is the heavy engine repairs that are done there; car repairs are not done there.

Q. The point I want to get at is: these shops are for repairs for your entire system of the Chicago, Burlington & Quincy, west of the Missouri River?

A. Yes, sir.

Q. That would include repairs for equipment that goes on the A. & N. line, the Nebraska City line, and all the other lines running over the State of Nebraska in various directions and into Colorado and parts of Dakota and Wyoming?

A. Yes; the entire road west of the river.

Q. The shops you speak of at Plattsmouth, are also included in this construction account of the B. & M.

A. Yes, sir.

Q. In those shops you likewise do work belonging to the equipment for the entire system west of the Missouri River?

A. Yes, sir; car repairs are done, or especially light engine repairs.

Q. Then, if you were seeking to ascertain the value per mile of the entire system you would have to apportion that item of cost to the entire system, would you not?

A. Properly, I presume so, on a mileage basis.

Q. Now, how much is that item expended in the Havelock shops for buildings and tools and machinery?

A. My memory does not serve me there; I think so far it is about $350,000; I only guess at it.

Q. Then, on a mileage basis, instead of applying that $350,000 to the mileage of the B. & M. proper, it would be distributed over about 3,000 miles of road?

A. No, sir; not necessarily.

Q. What is the entire mileage west of the Missouri River?

A. It is practically 3,400 miles of road, but our great bulk of engines and engine service is between Hastings and Pacific Junction, that is our great bulk of business is emptied into the main line.

Q. You mean by that simply you use more engines on the main line than you do on the other lines?

A. Yes, sir.

Q. If you were going to distribute it on a mileage basis it would have to cover the 3,400 miles of line instead of being confined to 195 miles?

A. I should say the only equitable way to distribute that is not on a mileage basis, but on the tonnage or mileage performed on its section of the road.

Q. Now, what was the amount invested in the Plattsmouth shops; what is included in this item of construction?

A. I speak from memory, there; I think it is about $150,000.

Q. The same principle would apply to that item as to the Havelock shops?

A. Well, hardly that, because they do the very light engine repairs there, and the equipment, that is the car repairs, that shop does the work especially between Lincoln and Pacific Junction, and now we have shops at all the division headquarters, as at Alliance and McCook, and at present there is very little work done at Plattsmouth for the road west of Lincoln.

Q. When you speak of Plattsmouth and Pacific Junction, it is work done for cars the proper mileage of which is in Iowa?

A. No, sir; we have only four miles in Iowa, including the bridge.

Q. From Plattsmouth to Pacific Junction; how many have you in Nebraska?

A. About three miles.

Q. Then from the river to Pacific Junction is how many miles?

A. Three miles; you see we run from the Plattsmouth shops to the bridge, which is south of town, then we run from the bridge, which is a mile and an eighth—

Q. Do you mean the Missouri River is about half way from Plattsmouth to Pacific Junction?

A. Here is the Plattsmouth shops; we run a mile and a half south of town and then curve and go directly east—we reckon one division from Pacific Junction to a line which is fifty-five miles and a fraction—then going the other way, it is about two and one-half miles in Nebraska to the middle of the river, I should say two and one-half miles.

Q. Then, according to your computation, more than one-half of the $150,000 of the Plattsmouth shops would be properly accredited to the line in Iowa?

A. Oh, no.

Q. Well, more than one-half the distance of the line is in Iowa, is it not?

A. We were speaking of the Plattsmouth shops as serving the line from Pacific Junction to Lincoln, that would be, in round numbers, fifty-seven and one-half miles in Nebraska, and say two and one-half miles in Iowa.

Q. And these items that you have set down here included in the sums for construction and also for equipment to the end in 1893 represents the sum total of the original cost so expended for new engines, new cars, ballasting, side tracks, new rails, and so on?

A. Up to that date.

Q. And then that item for construction and also the item for equipment has a sum total of all the items so expended since 1872?

A. I do not recollect the date there; yes, sir.

Q. Since 1872, then, to the end of 1893, however, there has been a gradual decrease, has there not, in the cost per ton for rails?

A. No; I should say in the last ten years there has been; previous to that, I think not. I only speak from memory, because the price of rails varies so much; it has been $60 a ton and then $30.

Q. The price in 1893 is much less than it was in 1872?

A. O, yes; probably one-half.

Q. But in this item you have included the amount of the original sum expended for those articles in 1873, 1874 and 1875, notwithstanding the fact that such items would be purchased to-day for about one-half the sum of money that was then paid for them?

A. The original cost was charged up, whatever that was.

Q. So, in your table you have made no deduction that would have taken place in the value of those articles?

A. No, sir.

Q. So that these sums do not represent what the same amount of equipment would cost if purchased new, at this time?

A. Yes, sir; I should say that it did, probably less, in as much as our equipment is much more expensive now, and much better than it was twenty years ago. Twenty years ago we bought engines that did good service for $6,500 and $7,500, now it is $11,500 frequently.

Q. We will get to the engines a little later on. I want to draw your attention to the question of rails, and construction, that we were talking about; the same quality of rails that were purchased in 1873, 1874 and 1875, could be purchased to-day for about one-half the sum of money for which they were then purchased?

A. I would not want to answer that, because in those days we used iron rails, now we use rails entirely made of steel.

Q. When did you begin the purchase of steel rails?

A. I think about ten or twelve years ago, probably more.

Q. Do you know what you paid for steel rails when you began the purchase of them?

A. I do not.

Q. Do you not know that the price of steel rails since that date has been very greatly reduced?

A. I do not know about that; I presume it has.

Q. Do you not also know that the cost of construction by the use of improved appliances, wheel-scrapers, and so on, has tended greatly to reduce the cost of construction between 1872 and 1893?

A. Yes, sir; it has.

Q. Then, it follows, necessarily, does it not, Mr. Taylor, that the cost of construction of that road to-day would be much less than it was in 1872?

A. With the exception, probably, of the cost of right-of-way, and ties and equipment, it might be.

Q. In the cost of construction I am not including equipment, that is an independent item, and you have set it down so, so I wish you to answer my question with reference to construction independent of equipment?

A. I presume it would, with the exception of right-of-way.

Q. As to the question of right-of-way, was not the right-of-way much cheaper in 1872 than at the present time?

A. Yes, sir; much cheaper.

Q. That was by reason of the fact that the state was then new and not densely populated?

A. Yes, sir.

Q. Was not the right-of-way of the main line of the B. & M. granted to your company by the Government?

A. I do not know.

Q. Then, personally, Mr. Taylor, you are not informed as to the cost of rails from 1872 down to 1893?

A. I could not tell without reference to tables.

Q. And you are not informed as to whether or no your right-of-way was granted you by the Government and cost your company no money?

A. I know that some of it was granted, the right-of way was granted under the Congressional Act.

Q. And you have no personal knowledge of the cost of constructing the road in 1872, then, except as you find it recorded in the books?

A. Except as I find it recorded in the books.

Q. And thence your knowledge of the cost of equipment during that period of years is also based on what you find recorded in the books, is it not?

A. No; the equipment, I audited the vouchers in person, nearly all of them.

A. No; I was originally auditor in 1872 and then they divided the department and I was not auditor for eleven years, and then they reconsolidated again.

Q. Well, then, your knowledge commencing in 1875, I will ask you what you paid then for an ordinary freight car?

A. I could not tell without looking at the items. It got down as low as $450, and $800 was the highest we ever paid.

Q. Do you know what was paid for passenger cars in 1875?

A. I should say about $4,500 apiece.

Q. Is that what you pay now?

A. I think about $4,200; there is equipment which goes on after that; air-brake equipment.

Q. Do you know what you paid for flat cars in 1875?

A. No; I would not like to say; I could not tell without reference.

Q. Do you know what you paid for flat cars in 1893?

A. No; we purchased none in 1893.

Q. Now, as to engines, what did you pay in 1875?

A. I don't remember.

Q. Do you know what you paid in 1880?

A. I don't remember.

Q. Can you tell what you paid in the interim between 1875 and 1880 for engines?

A. We paid, in my memory, from $7,500 to $11,500; I think that is the highest we ever went; the lowest we ever went is $6,500.

Q. Now, do you mean that in the same year you might buy an engine for $6,500 while another might cost you $11,000?

A. No; years ago we used a lighter class of engines; now we are using a very heavy class.

Q. I am speaking of from 1875 to 1880?

A. Yes, sir.

Q. Do I understand you that the increase in the price of engines arose from the fact that the higher class of engines were larger engines?

A. Heavier equipment.

Q. The larger the engine, the greater number of cars it would haul on your road?

A. Yes, sir.

Q. Thus, as you increase the cost and size of the engine, you decrease the number of engines necessary to transport the same amount of freight?

A. No; inasmuch as our freight cars have doubled the capacity in that number of years.

By Mr. Webster: Read the question.

Q. Thus, as you increase the cost and size of the engine you decrease the number of engines necessary to transport the same amount of freight?

A. Well, then, probably to haul the same number of tons, if that is what you mean.

Q. And when you purchased higher priced freight cars, it was because the cars were larger that they cost a greater sum of money?

A. Yes, sir; I presume that was the reason; they were a heavier car and a better car.

Q. Then the larger the freight car the greater amount of tonnage the car will carry?

Q. Then by the increased amount of money expended for a single engine and single car it would diminish the

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number of engines and the number of cars necessary to transport the same amount of cars?

A. Yes, sir.

Q. Since 1872 down to 1893, is it not true that the tonnage of a freight car has increased from about 20 to 60 tons?

A. From 20,000 to 60,000 pounds.

Q. That is, the capacity of the car has increased about 300 per cent.?

A. No, sir; 200 per cent.; that is, it is three times what it was then; where it was 100, it is 300 now.

Q. That would be 300 per cent., wouldn't it?

A. 200 per cent.

Q. Thence, from the same amount of tonnage so far as the cars are concerned, you would require only one-third the number of cars per mile in 1893, that would have been required in 1872 to haul the same amount of cars?

A. I should say yes.

Q. And in about what ratio has the hauling capacity of locomotive engines increased from 1872 to 1893?

A. I could not answer that question; I am not mechanic enough to answer that.

Q. Drop that for a moment and pass to the Omaha & Southwestern line, the original cost of which you state to have been $917,755.32, was a line extending between what points?

A. Between Omaha and La Platte and between Crete and Beatrice, in total about forty-nine miles.

Q. That line was a line made up of two disconnected roads?

A. And it is still made up of two disconnected lines.

Q. That line of road was not built by the B. & M., was it?

A. No, sir.

Q. It was constructed by an independant corporation, was it not?

A. Yes, sir.

Q. And it was owned by an independent corporation, was it not?

A. Yes, sir.

Q. How is it to-day; owned by the Burlington, or still owned by the original company?

A. Owned by the Burlington Company.

Q. How did the Burlington Company acquire title to the Omaha & Southwestern?

A. By purchase, I presume.

Q. Was it not a fact that the Omaha & Southwestern line was leased to the Burlington?

A. I don't know whether it was leased or purchased.

Q. You do not know that?

A. I don't know, I presume it must have been leased.

Q. Is it not a fact that the Burlington operates the Omaha & Southwestern to-day under an existing lease?

A. Well, they operate it, I presume it is under a lease; but my memory does not serve me in that regard.

Q. Now what I want to get at, is it not a fact that the B. & M. road never purchased the Omaha & Southwestern and does not own it to-day?

A. That I do not know.

Q. Be that as it may; it is argued as a fact is it not, that the Burlington road did not expend $917,755.32 for the construction of the Omaha & Southwestern?

A. Yes, sir; they expended that, although a portion of it was doubtless paid to the original builders, a part at least of that sum was paid to the original builders of the road for their equity.

Q. How expended, if you do not know that the Burlington road ever became the owner of the Omaha & Southwestern but it still may be operated under a lease?

A. Well, I know that they purchased the stock; how the bonds were disposed of, I do not know; it was consumated in the Boston office.

Q. What you mean by that is the Burlington road paid out in purchasing the stock of the Omaha & Southwestern the sum that you have set down?

A. No, not that, $9,177—whatever it is, a part of it may have been paid for it; what part of it, I don't remember.

Q. The construction account of the Omaha & Southwestern was not kept by your company?

A. Yes, sir, for the Crete line it was, from Crete to Beatrice.

Q. Well, I am not confining it to that alone; I am asking about the road?

A. The seventeen miles here, I don't remember; I know we built the bridge across the Platte for them, and we built the Crete and Beatrice branch.

Q. Do you know anything about the amount of stock of the Omaha & Southwestern, that was purchased by the B. & M.?

A. I do not.

Q. Do you know the amount that was paid per share by the B. & M. for the stock of the Omaha & Southwestern?

A. No, sir.

Q. That transaction, whatever it was, took place in Boston, did it not?

A. Yes, sir; it was closed up in the Boston office.

Q. Do you know the road known as the Omaha & North Platte?

A. Yes, sir.

Q. That is what line?

A. That is the line from Omaha to Ashland, and from Ashland to Schuyler; it is the line commencing on the west line of Tenth street.

Q. How many miles in that line?

A. Between eighty and eighty-one miles.

Q. That road was built by a corporation known as the Omaha & North Platte Railway, was it not?

A. Yes, sir.

Q. And that line is still owned by that company, is it not—the Omaha & North Platte Railway Company, is it not.

A. Yes, sir; it is leased to the B. & M. road, and the B. & M. road is operating it under a lease.

Q. In your table, from which you first testfied, you you have put down the cost of that road, have you not?

A. That is on the sheet you have now.

Q. I see you have put down the cost of the A. & N. Railroad, 107 miles, at $3,423,000; what you mean by that the A. & N. road was a road built by the Atchison & Nebraska Railway Company, wasn't it?

A. Yes, sir; running from the state line to Lincoln, Nebraska.

Q. The B. & M. road did not construct the A. & N. line?

A. No, sir.

Q. And the B. & M., as a matter of fact, was consolidated with the Atchison & Nebraska line, under a law of the state?

A. They purchased the line.

Q. How purchased it?

A. By means of a lease; they bought a control of the stock and then made a lease.

Q. And made a lease to themselves of the road?

A. Or the original owners leased it to them.

Q. So, then, the A. & N. line is not owned by your company, but operated under a lease?

A. Operated under a lease; the ownership—I am not certain about how that is.

Q. Now, how about the Midland; is that operated under a lease?

A. Yes, sir.

Q. And how about the Lincoln & Northwestern?

A. That is also leased.

Q. That runs from Lincoln, where?

A. Columbus.

Q. And yet all these lines are included in what you call a system of the Chicago, Burlington & Quincy, west of the Missouri River?

A. All of them.

Q. In your answer, which was in the form of a tabulated statement, purporting to represent the cost of construction and equipment of C. B. & Q. lines in Nebraska, to December 31st, 1893, you have included in there, have you not, all sums that have been expended on said respective lines for construction and equipment since said lines were first built, or since they came under the control of the C. B. & Q. Company?

A. Yes, sir; everything.

Q. And in that table, with the exception of the two first lines, you have not separated the cost of construction from equipment?

A. I believe in no case.

Q. By that do you mean that you have charged up to the B. & M. the cost of the equipment on all of the lines?

A. Yes, sir.

Q. Then what is there set down under the head of equipment at the top of the statement, includes the cost of

equipment on all the separate lines that are set down in the statement?

A. Yes, sir; except as I say where we acquired a few engines or cars with a road that was purchased like the Omaha & Southwestern, we got four engines for instance, with that.

Q. Speaking of your terminal grounds at Lincoln, which you spoke of in chief, as being a part of the cost of construction of the B. & M. road, and so included in the items of constructions of the B. & M. road, let me ask you whether those terminal grounds are not used for terminal facilities for all of your lines, which terminate at Lincoln?

A. All of our system of lines.

Q. And you have starting out from Lincoln, not only the B. & M. but you have the A. & N. line, the Nebraska railway, the Lincoln & Northwestern, and what others?

A. That is all.

Q. That would make those grounds used by four different roads?

A. Yes, sir.

Q. And yet in your table, you have put all that in the construction account of the B. & M.?

A. That is, except what property we acquired with the A. & N. and with the Nebraska Railway, we got some depot grounds with those companies—how much I could not tell.

Q. You have not undertaken then, to in any manner apportion the terminal grounds to the mileage represented by these respective roads?

A. No, sir; it could not be done.

EVERETT BUCKINGHAM, sworn, testifies in behalf of complainant, as follows:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your full name and occupation.

A. Everett Buckingham, Superintendent Car Service, Union Pacific Railway Company.

Q. How long have you been in the service of The Union Pacific Railway Company?

A. With The Union Pacific and branches, since 1870.

Q. How long have you been Superintendent of Car Service?

A. Since 1889.

Q. Are you able to state the cars loaded on the Nebraska Division on The Union Pacific System for the years 1892 and 1893.

A. I am from the memorandum.

Q. Was that memorandum made up in your office?

A. Yes, sir.

Q. Under your supervision?

A. Yes, sir.

Q. Is it correct?

A. Yes, sir.

Q. You may give those items.

A. This statement shows the number of cars loaded each day and total by months for years 1892 and 1893, and a daily average arrived at, it shows that for the first five months.

Q. You might just, if you please, put that in as the answer to the question?

A. I will submit this statement then.

Which statement is as follows: (See page 1008.)

RE-DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Referring to the transaction by which the Burlington & Missouri River Railroad Company in Nebraska acquired the Omaha & Southwestern Railroad, did not the Burlington purchase the stock of the Omaha & Southwestern?

A. Yes, sir; from the old owners.

Q. Do you know what they paid for that stock?

A. Sixty-one thousand dollars.

Q. After that purchase was the lease made that you have referred to?

A. Whether it was made before or after, I do not know; I presume after.

Q. That lease was for a term of 999 years, was it not?

A. Yes, sir; guaranteeing the interest at 8 per cent., I believe, on about $1,034,000 worth of bonds.

Q. Those bonds represented the cost of construction, didn't they?

Statement of Cars Loaded on Nebraska Division, Union Pacific System, Years 1893 and 1892.

Month	Year—1893	Daily Av.	Inc. or Dec.	Month	Year—1892	Daily Av.
January	10,035	356	Inc. 10	January	10,747	346
February	7,921	283	Dec. 41	February	9,102	324
March	8,820	284	" 17	March	9,321	301
April	8,317	277	Inc. 4	April	8,187	273
May	9,081	293	" 25	May	8,305	268
June	8,056	268	Dec. 77	June	10,353	345
July	6,746	218	" 20	July	7,395	238
August	6,833	220	" 53	August	8,476	273
September	7,326	266	" 62	September	9,848	328
October	8,778	281	" 65	October	11,363	366
November	7,757	258	" 42	November	9,012	300
December	8,178	264	" 51	December	10,773	315

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A. They did.

Q. And thereafter the Burlington operated the road, did it not?

A. Yes, sir; operated the road.

Q. Now, the Omaha & North Platte, was not that corporation organized in the interest of the Burlington?

A. It was; the incorporators were Burlington officers in every case.

Q. And where did the money come from to build the road?

A. It was furnished by the B. & M. Company.

Q. And who owns the stock of that company?

A. The B. & M. Company, or the C. B. & Q. Company.

Q. How long was the lease you speak of?

A. I believe it was for ninety-nine years, but I am not certain without reference.

Q. Now, the A. & N. Company, was the cost to the B. & M. of that line of road based on the construction accounts of the A. & N. Company?

A. That I do not know; I have no personal knowledge of that transaction.

Q. Between what two points did the Midland run?

A. The Midland Pacific, between Nemaha City, or between Nebraska City and Lincoln, and it might have been between Nebraska City and Brownville.

Q. Was not that company consolidated with another company running south from Nebraska City?

A. I believe it was a company called the Brownville, Ft. Kearney & Pacific.

Q. What was the name of the consolidated company?

A. The Nebraska Railway Company.

Q. And did the Burlington purchase the stock of that company?

A. Yes, sir.

Q. And what company owns that stock now?

A. The C., B. & Q.

Q. What was the term of the lease?

A. I cannot tell without referring to our lease record?

Q. Perhaps by looking at this book you can refresh your recollection?

A. Nine hundred and ninety-nine years.

Q. Was not the franchise of the Lincoln & Northwestern acquired by the Burlington before the construction of the line of road?

A. No, sir; after it was constructed.

Q. How did it acquire that road?

A. By lease, I believe.

Q. What about the stock?

A. I have no knowledge of that transaction—yes, by lease, dated January 1, 1880.

Q. Has the Burlington, or the C., B. & Q. furnished all the money that has been expended on that road since it took possession?

A. All of it.

Q. What was the date of the lease of the Nebraska Railway, of which the Midland formed a part?

A. To the B. & M. road?

Q. Yes, sir.

A. The fifth of June, 1877.

Q. At that time did the Burlington assume the control and possession of that property?

A. Yes, sir; on that date.

Q. And retained it ever since?

A. Yes, sir; retained it ever since.

Q. And expended the moneys which are shown in one of your answers upon the road?

A. Yes, sir.

Q. When did the Burlington acquire the A. & N.?

A. January 1, 1880.

Q. Did the Burlington enter into the possession of that property at that time?

A. Yes, sir.

Q. And has retained possession ever since?

A. Yes, sir.

Q. And expended the sums of money which you have in one of your answers stated as having been expended on that?

A. Yes, sir.

Q. The long and short of it is that all these roads that have been mentioned in your cross-examination are proprietary roads, first of the B. & M., and then of the C., B. & Q., is that not so?

A. That is a fact.

Q. It appears from your testimony that part, perhaps a considerable part, of the terminal grounds at Lincoln were

granted to the Burlington Company by the state, did you carry in your construction account any sum of money as expended for that property?

A. No, sir; I have no knowledge what they acquired from the state; whatever they did aquire was put in as voluntarily contributed, and would not count.

Q. You did not carry into your construction account, then, anything you did not actually pay for?

A. Never did.

Q. What was the character of the country through which your main line from Plattsmouth to Kearney was built at the time of its construction?

A. West of Crete it was practically a wilderness.

Q. How much settled was the country between Plattsmouth and Crete?

A. Between Plattsmouth and Lincoln it was an old country, but between Lincoln and Crete it was very sparsely settled.

Q. What is the character of the country with respect to population between Plattsmouth and Crete through which that line runs?

A. It is well settled, looks like an old community.

Q. What would you say in that respect to these other lines of road of which you have spoken?

A. Well, some of them are still in the wilderness, badly so.

Q. Is it not a fact that at the time you acquired the Omaha & Southwestern the country between Crete and Beatrice was very sparsely settled?

A. Yes, sir.

Q. And is it not a fact it was not very thickly settled between Omaha and the Platte?

A. No; it was sparsely settled between Omaha and the Platte.

Q. What would you say in that respect of the country between Nebraska City and Lincoln?

A. I never was very well acquainted with that country; I have never been over it more than three times on the railroad.

Q. All that South Platte country was a comparatively sparsely settled country, was it not, down to 1880?

A. Yes, sir; particularly everything west of a line drawn north and south through Lincoln; in fact, the settlement was in the southeastern part of the state entirely.

Q. Where have you shops besides the ones you have mentioned at Lincoln and Plattsmouth?

A. We have small ones at Nebraska City, Holdrege, Hastings, Alliance, Wymore, and Red Cloud; and some other points.

Q. These are repair shops, are they not?

A. Repair shops; entirely.

Q. What would you say as to the value of those shops in the aggregate?

A. I could not form an estimate of it.

Q. Where you acquired right-of-way in the construction of the main line not over public domain, you acquired that right-of-way by purchase, did you not?

A. By purchase and condemnation.

Q. You speak of the cost of a passenger coach at a figure which you name, which I do not now remember, did you put on such coaches, after the purchase, any appliances?

A. At present, I believe they come fully equipped, but we used to have to put on air-brake appliances; I believe now that is included in the cost of the coach complete, if my memory serves me right.

Q. You use chair coaches very considerably on the main line, don't you?

A. Yes, sir, run one on every train, sometimes two.

Q. Those are much more expensive, are they not, than the ordinary coach?

A. Yes, sir.

Q. Will you tell us why you carried in the account of the B. & M. the equipment of the branches as well as of that line?

A. It was more as a convenience for bookkeeping than for any other reason, and we distributed pro rata by mileage and tonnage between the different roads in our returns to the State Board for taxation purposes.

Q. I show you another statement in the same connection, and you may state what it is, and if it was made up in the same way, and if correct?

A. It is; it is a statement of similar nature, for the Union Pacific System, giving exactly the same information as the previous statement, with the addition of the months of January, February and March, of 1894.

Q. Do you present that as your answer to the question?

A. Yes, sir.

Q. The following is a copy of the statement referred to:

Statement of Cars Loaded on Union Pacific System, Years 1893 and 1892.

1893	Month	Daily Av.
January	59,315	1,913
February	49,222	1,758
March	53,617	1,749
April	51,443	1,714
May	57,566	1,856
June	48,962	1,632
July	40,273	1,299
August	42,975	1,386
September	45,701	1,523
October	56,493	1,822
November	51,994	1,933
December	45,865	1,479
1892	**Month**	**Daily Av.**
January	26,359	1,818
February	45,754	1,577
March	50,221	1,620
April	47,923	1,597
May	58,609	1,890
June	57,735	1,924
July	53,426	1,723
August	59,142	1,907
September	66,048	2,201
October	68,059	2,195
November	63,293	2,109
December	62,699	2,022
1894	**Month**	**Daily Av.**
January	34,736	1,120
February	36,579	1,306
March	3,592	1,158

Q. Look at the paper I show you, and state if that was made up at the same time and in the same way under your supervision and if it is correct?

A. Yes, sir; I would like to add that statement ought to have been put in better shape.

Q. You mean in better shape in respect to chirography?

A. Yes, sir.

Q. What was the loaded and empty freight car mileage on the Nebraska division and also on The Union Pacific System for the years 1892 and 1893?

A. This statement will show, and I will submit that as the answer.

Loaded and empty freight car mileage.

NEBRASKA DIVISION.

1892.	LOADED.	EMPTY.	TOTAL.
January	4,395,233	1,677,298	6,072,531
February	3,896,329	1,482,203	5,378,532
March	4,070,316	1,025,396	5,095,712
April	3,860,583	1,085,870	4,946,453
May	4,018,404	944,239	4,962,643
June	4,475,512	1,693,505	6,169,017
July	4,618,125	1,581,710	6,199,835
August	5,252,444	1,921,869	7,174,313
September	5,800,278	2,147,819	7,948,097
October	6,374,398	2,364,698	8,739,096
November	5,571,232	2,411,685	7,982,917
December	5,176,961	1,903,764	7,080,725
Total	57,509,815	20,240,056	77,749,871
1893.			
January	4,566,994	1,873,356	6,440,350
February	3,863,908	1,458,256	5,322,164
March	4,435,722	1,522,772	5,958,494
April	4,171,954	1,490,096	5,662,050
May	4,378,925	1,741,121	6,120,046
June	4,079,893	1,458,048	5,537,941
July	3,794,142	1,628,001	5,422,143
August	3,981,883	1,988,887	5,970,770
September	5,020,524	2,346,706	7,367,230
October	6,188,895	1,523,322	7,712,217
November	5,405,972	2,007,290	8,413,262
December	4,215,593	1,912,827	6,128,420
Total	54,104,405	21,950,682	76,055,087

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UNION PACIFIC SYSTEM.

1892.	LOADED.	EMPTY.	TOTAL.
January	15,497,832	6,275,358	21,773,190
February	13,122,240	5,545,025	18,667,265
March	14,327,505	4,639,514	18,967,019
April	14,305,187	4,520,694	18,825,881
May	15,595,999	5,339,042	20,935,041
June	17,265,572	6,856,579	24,121,151
July	18,504,208	6,950,977	25,455,185
August	19,020,770	7,280,810	26,301,580
September	20,510,760	7,715,026	28,225,786
October	22,151,598	7,956,381	30,107,979
November	20,261,223	8,509,156	28,770,379
December	18,455,783	7,770,382	26,226,165
Total	209,018,677	79,358,944	288,377,621
1893.			
January	16,126,877	7,260,185	23,387,062
February	13,664,607	5,764,414	19,429,021
March	15,646,385	5,891,416	21,337,801
April	15,025,885	5,470,962	20,496,847
May	17,094,906	7,550,226	24,645,132
June	15,407,718	6,450,753	21,858,471
July	13,704,379	5,656,075	19,360,454
August	13,438,836	5,912,327	19,351,163
September	15,176,777	6,778,825	21,955,602
October	19,555,130	10,030,687	29,575,817
November	17,728,465	8,687,741	26,416,206
December	14,026,423	6,646,491	20,672,914
Total	186,586,388	81,900,102	268,486,490

Q. State whether, in the operation of your road, the equipment is apportioned between the different lines or is held for use on the different lines as occasion requires?

A. The equipment is transferred from one division to another as demand of the business requires?

Q. There is no particular equipment assigned to any one division permanently, then, I suppose, that on one day,

in one part of the year, and another day, on a distant part of the year, the figures would materially differ, would they?

A. Yes, sir.

Q. Arising out of the exigencies of the business?

A. Yes, sir.

Q. Are you able to state what the passenger and freight car equipment was on the 31st day of December, 1892?

A. Yes; and I submit this statement as the answer: (See page 1019.)

Q. Was that day selected by you for any particular reason besides that of convenience?

A. No, sir; the only difference between the equipment as it stood then and to-day would possibly be a few cars that were broken up or destroyed.

Q. Substantially, then, that statement answers the conditions at this time?

A. Yes, sir.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. Your first statement shows the cars loaded on the Nebraska division of The Union Pacific Railroad for the years of 1892 and 1893; now, does that include entire cars or parts of cars?

A. It includes what we term car-load freight, supposed to represent car-loads.

Q. It has no reference then to what you might term as local freight or parts of car-loads?

Statement of Passenger and Freight Car Equipment on hand December 31st, 1893.

Passenger Equipment.	U. P. Ry.	O. & R. V.	O. R. & NAV. CO. B. G.	O. R. & NAV. CO. N. G.	D., L. & G.	O. S. L. & U. N. B. G.	O. S. L. & U. N. N. G.	U. & N. Trust.	U. P., L. & C.	K. C.	E. & P. C.	O. R. E. Co.	Total.
Pullman Sleepers	70	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	....	70
Dining Cars	13	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	....	13
Chair and Coach	161	1	27	2	12	38	11	5	.....	5	.....	1	263
Coach and Baggage and Mail	25	.....	4	.....	8	8	1	.....	.....	1	1	.....	48
Excursion	.....	.....	.....	.....	.....	.....	20	.....	.....	.....	.....	.....	20
Emigrant Sleepers	41	.....	.....	.....	.....	1	.....	.....	.....	.....	.....	.....	42
Baggage, Mail and Express	100	3	25	.....	6	21	3	6	.....	3	.....	2	169
Officers	14	.....	3	.....	2	1	2	....	.....	.....	1	.....	23
Total Passenger Equipment	424	4	59	2	28	69	37	11	.....	9	2	3	648
Freight Equipment.													
Fruit	779	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	779
Caboose	203	1	44	1	11	48	11	17	.....	4	1	5	346
Box	5,279	254	1,849	4	575	894	198	.....	598	47	.....	139	9,837
Furniture	746	.....	199	.....	.....	246	.....	.....	.....	.....	.....	.....	1,191
Refrigerator	426	.....	.....	.....	27	.....	.....	.....	.....	.....	.....	.....	453
Flat	412	4	267	33	131	177	67	....	.....	1	3	3	1,092
Coal	1,770	103	172	.....	390	1,936	257	410	.....	6	17	.....	5,041
Stock	1,098	9	245	.....	8	505	44	.....	155	2	21	.....	2,087
Combination Stock	59	.....	.....	4	.....	.....	.....	.....	.....	.....	.....	.....	63
Total Freight Equipment	10,772	371	2,776	42	1,142	3,806	551	427	753	60	42	168	20,889
Outfit and Working	129	.....	69	.....	6	17	7	.....	.....	1	.....	.....	229
Grand Total	11,325	375	2,904	44	1,176	3,892	595	438	753	70	44	171	21,766

A. No, sir.

Q. In making up this statement, that part of the tonnage of the road was ignored?

A. This represents the total loaded at the various stations, but does not include what is termed way freight that may be picked up by trains passing that carry what is called a way freight car for small miscellaneous shipments.

Q. This statement, you say, was prepared in your office?

A. Yes, sir.

Q. And from the books in your office?

A. Yes, sir; from the records.

Q. Those records are in your office still?

A. Yes, sir.

Q. And in your possesssion and under your control?

A. Yes, sir.

Q. Now, did you compare this statement to which I have directed your attention, with the books yourself?

A. Yes, sir; the memorandum you have there, I made up myself.

Q. And you say you took that directly from your records?

A. Yes, sir.

Q. Are those records contained in bulky and voluminous books?

A. They are contained in the shape of daily reports from the various stations.

Q. These daily reports you tabulated in a book?

A. We tabulated them into sheets, a sheet for each day.

Q. This second statement you have submitted is the number of cars loaded on the entire system of The Union Pacific Railway?

A. Yes, sir.

Q. That includes the line running from Atchison to Denver?

A. No, sir; simply represents the lines that are operated from Omaha.

Q. Now, what lines are those?

A. Those are The Union Pacific Railway Company, including the Kansas division, Colorado Branch, and Denver Pacific, the O. & R. V., The Oregon Short Line & Utah Northern, the O. R. & N. Company, Echo & Park City, Denver, Leadville & Gunnison, and the Denver & Boulder Valley.

Q. Now in that statement which you have submitted as a part of your answer, did you take into account in making that up, parts of car loads, or local freight?

A. Both statements are made from the same report. One is for the system, and the other for the Nebraska division.

Q. That scarcely answers my question?

A. They do not include small miscellaneous parts of freight handled by trains and picked up at small stations and handled as way freight.

Q. About what proportion of the freight carried by

the Nebraska division of The Union Pacific Railway, would that class of freight you have just alluded to, amount to?

A. Not to any great extent, I could hardly give you a definite answer; the bulk of such shipments originated at Omaha, Lincoln and Fremont, and are put into what is called car-load shipments.

Q. Now, this statement of passenger and freight equipment on hand December 31, 1893, that I fancy you took from your inventory?

A. Yes, sir.

Q. Have you a statement of that kind for the year 1892?

A. Yes, sir.

Q. Was your equipment larger in 1892 than it was in 1893?

A. A little larger in 1893 I think, by reason of a few cars purchased last spring; we break up in the service about a car per day.

Q. That is on the entire system of the Union Pacific?

A. Yes, sir.

Q. That is an average of about one car per day?

A. Yes, sir.

Q. This I observe included the Pullman sleepers and the dining cars; those are owned by your system?

A. They are operated on our line and known as "Association cars."

Q. This equipment is owned by the Union Pacific?

A. Yes, sir.

Q. Does this have any reference to what is known as the trust cars?

A. There are some trust cars—equipment—included in that statement.

Q. What I am getting at is, have you included in this statement all the trust equipment?

A. Yes, sir.

Q. That has been put in here as Union Pacific?

A. Yes, treated as Union Pacific.

Q. This statement or invoice, does that include your switch engines?

A. That includes nothing but cars; no engines; simply the passenger and freight cars and work cars—the outfits.

Q. This statement was not made up by yourself?

A. No, sir; but I am satisfied as to its correctness.

Q. Tell us how you satisfied yourself as to its correctness?

A. I checked the total against the original record.

Q. Now, this statement that is in pencil here, purporting to be the number of loaded and empty cars and the mileage?

A. That is the loaded and empty freight car mileage of The Union Pacific System on the Nebraska division shown separately.

Q. This is such as your books show?

A. Yes, sir.

Q. All that you know concerning that matter is what your records in your office show?

A. Yes, sir.

Q. And those you take to be correct?

A. I am satisfied as to the correctness of the statement.

Q. Will you tell us how that mileage is a made up and reported to your office?

A. The freight conductors make up a report showing the cars moved by them from one station to another; that report comes to my office and the mileage of the cars is computed from the same.

Q. And those computations are made in your office?

A. Yes, sir.

Q. And the record is kept there?

A. Yes, sir.

Q. Now, concerning these records, Mr. Buchingham, from which these statements are made, would they be accessible to Mr. Dilworth, for instance, if he desired to look at them?

A. Yes, sir.

Q. Would you have any objections to his making an examination at any reasonable time?

A. Yes, sir, he can at any time.

Q. I would like to inquire, Mr. Buchingham, what you mean by the Nebraska division?

A. The Nebraska division is the name of that part of the line operated by the General Superintendent, Nichols,

from Omaha; represents the lines from Council Bluffs to Cheyenne, and the O. & R. V. north and south of the main line.

Q. How much of that line that you term the Nebraska division lies within the State of Nebraska?

A. All except from the western state line to Cheyenne, a distance of, I think, about 40 miles, and from the Kansas line, near Okeeto, to Mahattan.

Q. Can you give me about the distance from Okeeto to Manhattan?

A. About 58 miles.

Q. That is all known as the Nebraska division?

A. Yes, sir.

Q. Now, in your statement of loaded cars that I see here before me, does that include the cars of coal which were transported on The Union Pacific System for the company itself?

A. Yes, sir.

Q. And how many of those were there, do you know?

A. I can hardly answer, off-hand; it varies; heavy in the winter and light in the summer, and in accordance with the demands of the business as it increases and decreases.

Q. That tonnage is very large on your system?

A. No more so, proportionately, than any other system.

Q. Whereabouts do you get that coal from?

A. The Nebraska division receives the bulk of their supply at Cheyenne from Wyoming.

Q. Where is it mined?

A. Hanna, Carbon and Rock Springs, Wyoming.

Q. Hanna, Carbon and Rock Springs, Wyoming, are all upon The Union Pacific System?

A. Yes, sir.

Q. And those mines from which you derive that coal are owned by The Union Pacific System?

A. Are owned by the Union Pacific Coal Company.

Q. Could you tell us the price per ton that is charged against your road for that coal?

A. I cannot.

Q. That is not within your line of duty to keep that?

A. No, sir.

Q. This statement of yours concerning loaded and empty cars, was made up particularly with reference to the mileage, was it not?

A. It represents the cars moved one mile, either loaded or empty.

Q. And it was not made up with any reference whatever to the amounts of freight received, for the hauling of that per ton or by the mile?

A. No; it simply represents the miles the cars have been moved. It is the mileage made by the cars.

Adjourned until Friday, April 20, 1894, at 4:30 P. M.

OMAHA, NEB., Friday, April 20, 4:30 P.M.

Pursuant to adjournment, the further taking of testimony was resumed as follows:

JAMES G. TAYLOR.

RE-CROSS-EXAMINATION.

By Mr. Webster:

Q. Mr. Taylor, did not the Burlington Company grade a line from Arcadia to Sargent, in the State of Nebraska?

A. The Lincoln & Black Hills Company graded a piece of road north of Arcadia; how far it runs, I do not know without reference.

Q. Where does the expense of that construction appear in your answers?

A. In the construction account of the Lincoln & Black Hills Railroad Company.

Q. That line is not being operated, is it?

A. It is being operated as far as Arcadia.

Q. But the line beyond Arcadia, towards Sargent, has never been operated?

A. No; it has never been laid with iron, or the bridges put in.

Q. Do you know how much was expended on that line?

A. The unfinished grade?

Q. Yes, sir?

A. I do not; cannot tell without reference to my accounts.

Q. Didn't your company grade a line from Imperial to Akron?

A. No, we never graded a line there.

Q. Have we not a line grade from Imperial to Akron?

A. No, we have no road graded into Akron; we have a survey between Akron, Colorado, and Holyoke, Colorado; I believe that survey is a preliminary, and that the line was not even located.

Q. Have you not a line graded from Crete to Milford?

A. Yes, sir.

Q. That was built under what company?

A. The charter of the Crete, Milford & Western Railroad Company.

Q. Where, in your summary of accounts, given in your examination in chief, does the cost of that construction appear?

A. That is included in the summary statement that I gave of the total cost of railroads of the C., B. & Q. system west of the Missouri River, up to December 31st, 1893, under the head of "C., M. & W."

Q. Do you know how much was expended on that grade from Crete to Milford?

A. I cannot remember at present.

Q. That part of the line, however, has not been operated?

A. No, sir.

Q. The mileage that was set down in that answer to which you refer, only included, however, the number of miles in operation?

A. That included only the actually completed railroad

at present in operation, and does not include the dump or unfinished railroad.

Q. Drawing your attention to the Omaha & Southwestern Railroad, about which I understood you to say that the Burlington Company purchased and owned the stock thereof, what persons or what company do you understand now own the stock of the Omaha & Southwestern?

A. The Chicago, Burlington & Quincy Railroad Company.

Q. And the amount paid for the stock of the Omaha & Southwestetn is included in your summary of the cost of construction of the road?

A. Yes, sir.

Q. I call your attention to the report of the Chicago, Burlington & Quincy to the State Board of Transportation of the State of Nebraska, and particularly to the entry set down on the printed page 168 of the Annual Report for 1892, purporting to be a recital of the stocks owned by that company, and ask you to point out whether the sum of the Omaha & Southwestern is anywhere included in that report?

A. I do not find that here.

Q. Does not that report to which I have called your attention purport to be a report made by the Chicago, Burlington & Quincy Company to the State Board of Transportation for Nebraska?

A. I don't know.

Q. As you have answered my last question that you

do not know, I call your attention to the opening pages of the report, on pages 155, 156 and 157, and ask you if it does not purport to be a report of the Chicago, Burlington & Quincy Company to the State Board of Transportation?

A. I presume it does.

Q. These reports to the State Board of Transportation are made up from office?

A. Either from my office, or from the Chicago office. They are made up and signed by the vice-president and treasurer of the company in Chicago.

Q. Drawing your attention to your answer heretofore given, that the Burlington Company purchased the stock of the Nebraska Railway Company; do you mean us to understand from that answer that the Burlington Company still owns the stock of the Nebraska Railway Company?

A. Yes; they purchased the stock and the bonds of the old company.

Q. Do you find the stock of the Nebraska Railway Company set down on page 168 of the report heretofore referred to, as being stock owned by the Burlington Company?

A. No; it is not there.

Q. I now call your attention to the entries on page 167 of the report heretofore referred to, purporting to report the bonds owned by the C., B. & Q. Company, and ask you if you there find set down any bonds representing the Nebraska Railway Company, referred to in your last answer?

A. No.

Q. Did you mean, by your answer, that the company

paid money for the stock and bonds of the Nebraska Railway Company?

A. Yes, sir.

Q. In what way?

A. The money which I presume they acquired by the sale of their own stock and bonds or security.

Q. And if so, the stock of the Burlington Company now outstanding, would represent the stock of the Nebraska Railway Company, and the stock of the Nebraska Railway Company would thereby be retired?

A. In value, yes sir; it is kept alive of course for floating purposes; for the purpose of keeping the organization alive.

Q. Then by that you mean you keep in existence the stock of the Nebraska Railway Company, but have likewise issued bonds or stock of the Burlington Company to equal it in value?

A. No, sir, not exactly that; the Nebraska Railway stock is not on the market, or has no market value whatever.

Q. Whether it is on the market or not, it is existing and outstanding?

A. Yes, for the purpose of keeping the organization alive.

Q. To that extent, then, the stock is duplicated?

A. I am not competent to answer that question.

Q. Now as to the bonds of the Nebraska Railway Company, bonds of the Burlington Company were issued

and sold for exchange for the bonds of the Nebraska Railway Company?

A. Probably so.

Q. And yet those bonds issued by the Burlington Company, which were sold to pay for the bonds of the Nebraska Railroad Company, would appear on your books and reports as bonds issued by the Burlington Company?

A. As bonds issued by the Burlington Company.

Q. Was that same thing true with reference to the Atchison & Nebraska Railway Company?

A. I do not know in regard to that company.

Q. Well, you do not find set down, in the pages referred to, either the bonds or the stock of the Atchison & Nebraska Railway Company, do you?

A. No, sir; it is not there.

Q. Well, the stock of the Atchison & Nebraska Railway Company is still kept outstanding, is it not?

A. It is in the hands of trustees for the use of the C., B. & Q. Company.

Q. If that stock was purchased and paid for by stock of the Burlington Company, then there would be outstanding duplicate issues of stock for the amount representing the A. & N. Company?

A. No, I could not say that.

Q. Well, whether it equals or did not equal it on the face value, if the stock of the Burlington Company was issued in exchange for the stock of the A. & N Company, and the stock of the A. & N. Company is still outstanding

in the hands of trustees, there would be a duplicate issue of stock, would there not?

A. Not necessarily.

Q. By that you mean if they were both outstanding, you do not think it would necessarily be an issue of duplicate stock?

A. Yes, sir.

Q. Still, the fact remains that the stock of the A. & N. Company is outstanding, and yet it has been paid for by the Burlington Company, by the issue of stock by the Burlington Company?

A. No, probably by the issue of bonds, I cannot tell you that that would probably be by the issue of bonds; I think it was paid for by the issue of bonds.

Q. If it was paid for by the issue of bonds, those bonds would appear as bonds of the Burlington Company?

A. The Burlington Company.

Q. The stock was paid for by the Burlington Company and is still outstanding in the hands of trustees, is it not?

A. In the hands of trustees.

Q. Did you give the amount of the stock of the A. & N. Company so purchased?

A. No, I have no knowledge of that.

Q. Can you state the amount?

A. No, sir.

Q. Can you state the amount paid for the stock and bonds of the Nebraska Railroad Company?

A. I cannot.

Q. I believe you gave the amount paid for the Omaha & Southwestern Company to be $61,000?

A. $61,000 for its stock.

Q. In the Omaha & Southwestern you did not take up the bonds, but simply guaranteed the payment of the interest thereon?

A. I don't recollect that.

Q. Did you not answer upon yesterday that you guaranteed the payment of the interest on the bonds of the Omaha & Southwestern to the amount of $1,034,000.

A. I believe that was guaranteed; I couldn't tell though without looking at the copy of the lease.

Q. Then what you knew on that subject when you testified yesterday was only from what you saw in the printed book containing a printed copy of the lease?

A. No, I have the original copy of that lease, and that book refreshed my memory; I remember that there was about fifty and, I think, seventeen-hundredths miles of road at $20,000 a mile bearing eight per cent.

Q. That $20,000 a mile you answered yesterday, I believe, the cost of the construction of the Omaha & Southwestern road?

A. Yes, sir.

Q. That you know of only historically, or as you find it on the books?

A. No, sir; I paid those vouchers myself; I audited those vouchers myself and paid them.

Q. Do you mean you now have a personal recollection of the amount of the cost of the Omaha & Southwestern?

A. Yes, sir; a great many of the items I do.

Q. I am speaking of the sum total, which is the only matter to which you testified, to wit, the $1,034,000?

A. Yes, sir, I can say I have personal knowledge.

Q. When did you examine those vouchers to refresh your memory about them?

A. That is hard to tell; I am at these vouchers all the time, from '69 to '94.

Q. Is not that a work that was completed many years ago?

A. No, we have done Omaha & Southwestern work within the last year.

Q. I am speaking of the cost of original construction, for which you say you guaranteed the bonds when that lease was made; was not that a great many years ago?

A. Yes; twenty years ago.

A. The reason I particularly remember the Omaha & Southwestern Railway Company, it was the first that I practically did for the B. & M. road, and the original correspondence between Caldwell and Thomas Doane passed through my hands—that is the letters were sent to me by mail, and it impressed my mind particularly.

By Mr. Woolworth:

Q. State in that connection who those people were?

A. Thomas Doane was the chief engineer of the B. & M. road and he negotiated the purchase of the Omaha &

Southwestern for John W. Brooke and others of Boston, and he also constructed the Omaha & Southwestern branch from Crete to Beatrice. S. S. Caldwell was at that time of the firm of Caldwell, Hamilton & Company, and he with others built the Omaha & Southwestern road.

By Mr. Webster:

Q. When you speak of the country between Lincoln and Kearney being practically a wilderness, you mean simply it was much inhabited?

A. That is it.

Q. It was not a wilderness in the sense that it was wild, and rugged, and rocky and timbered?

A. No, sir; but at that time everything west of Crete was supposed to be worthless. In 1872 I copied a report made by Thomas Doane to his chief engineer and put settlement west of the Blue River, but to try and sell it in large parcels for stock raising.

Q. The fact I am talking about is correct of the country?

A. At that time, he wrote, it was practically worthless.

Q. It was a level country, a prairie country, untimbered?

A. Not always.

Q. Substantially so?

A. Substantially so; yes, sir. I think you ought to add after that, that in 1871 there were but four houses between Crete and School Creek, what is now known as the town of Sutton.

By Mr. Woolworth:

Q. What is the distance from the one to the other?

A. About sixty miles.

By Mr. Webster:

Q. Such a country as that you have described would be unprofitable for the operation of a railroad, would it not?

A. Yes, if it was a wilderness.

Q. Well, it then was unprofitable to operate a railroad through at the time of which you have spoken, was it not?

A. Yes, sir.

Q. So that the traffic over that line would be an expense to your company, rather than a profit, financially speaking?

A. Yes, in the sense that all new roads was unprofitable.

Q. In that sense, it was a drain upon the treasury of your company in place of a source of revenue.

A. That was it.

Q. That was likewise true of many of the branch lines built by your company?

A. Yes, sir.

By Mr. Webster: In connection with the cross-examination of this witness as to bonds and stock owned, I desire to offer in evidence the extracts on the two pages to which the attention of the witness was called, one headed "Bonds Owned", found on page 167, and the other "Stock Owned", found on page 168 of the Sixth Annual Report of

the Board of Transportation, State of Nebraska, for 1892. The above extracts are marked Exhibits "——", and of which the following is a copy:

BONDS OWNED.

Income or interest received....$ 290,900
Valuation..... 6,692,990

Name of Road or Company.	Total Par Value.
St. Louis, Keokuk & Northwestern	$ 6,100,000
Burlington & Northwestern	220,000
Burlington & Western	571,201
Chicago, Burlington & Northern	1,074,000
Humeston & Shenandoah	1,342,000
Peoria Union Elevator Company	200,000
St. Louis United Elevator Company	97,500
Wapello Coal Company	470,000
Total	$10,074,701

STOCKS OWNED.

Income or dividend received....$ 949,456
Total valuation..... 9,982,551

Name of Road or Company.	Total Par Value.
Chicago, Burlington & Northern	$12,070,100
Hannibal & St. Joseph	14,244,900
Kansas City, St. Joseph & Council Bluffs	5,263,293
Burlington & Northwestern	123,950
Burlington & Western	856,801
Chicago, Burlington & Kansas City	8,000,000
St. Louis, Keokuk & Northwestern	5,443,800
Humeston & Shenandoah	2,013,000
Atchison Union Depot Company	9,000
Hannibal Union Depot Company	7,800

Name of Road or Company.	Total Par Value.
Keokuk Union Depot Company	20,000
Omaha Union Depot Company	259,500
St. Joseph Union Depot Company	20,000
Peoria Union Elevator Company	200,000
St. Louis United Elevator Company	195,000
Union Elevator Company, Council Bluffs, Ia	46,700
Empire Coal Company	15,000
Inter-State Industrial Express Company	1,500
Nebraska Exposition Association	6,675
Chicago Union Transfer Railway	80,000
Mitchell Coal and Land Company	90,000
Total	$48,967,019

RE-DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Mr. Taylor, you have said in 1871 and 1872 the country west of Crete was practically a wilderness, you have also said it is now a well-settled, old-appearing country; how did this great change come to be made in the condition of that region within the period of twenty years?

A. By the settlement of it, through the efforts of the Burlington & Missouri River Railroad Company.

Q. What was the character of the efforts of the company?

A. Largely advertising and the judicious use of traveling passenger agents and traveling land agents in the east.

By Mr. Webster:

Q. All of which entailed additional expense and drew

additional expenses from the treasury of the Burlington Company?

A. Yes; but it did not come out of the operation of the earnings of the road.

By Mr. Woolworth:

Q. What did it come out of?

A. The proceeds of the sale of the land grant.

Q. Then I understand you to say that that region of country was settled up by the direct efforts of the Burlington & Missouri River Railroad Company?

A. The land department of the Burlington & Missouri River Railroad.

Q. And the expense was borne by the fund raised from the sale of the land grant to the company by the United States?

A. Yes, sir.

Q. Supposing the company had never built its road in there and never made these efforts, what would have been the condition of that country to-day?

By Mr. Webster: The State Board of Transportation objects for the reason that it is calling simply for a conjectural opinion of this witness touching what would have been the development of this country without the aid of the Burlington road.

A. It would have been a wilderness.

By Mr. Webster:

Q. By the building of that road you were enabled to

get the land grant from the Government representing the mileage so constructed, the land grant you would not have acquired except by such construction?

A. I presume that was a fact.

Adjourned until Tuesday, April 24, 1894, at 2 o'clock P. M.

OMAHA Tuesday, April 24, 2 P. M.

Present:

J. M. WOOLWORTH,

Solicitor for Complainants.

JNO. L. WEBSTER,

G. H. HASTINGS and

W. A. DILWORTH,

Solicitors for Defendants, Members of the State Board of Transportation.

Pursuant to adjournment, the further taking of testimony is resumed as follows, viz.:

VIRGIL G. BOGUE, sworn, testified in behalf of complainants, as follows, viz.:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, and occupation?

A. Virgil G. Bogue; occupation, civil engineer.

Q. Were you ever connected with The Union Pacific Railway Company?

A. Yes, sir.

Q. During what period of time?

A. From November, 1886, to February, 1890.

Q. In what capacity?

A. Chief engineer.

Q. Did your duties as chief engineer of the company require you to acquaint yourself with the properties of the company in Omaha and on the lines in this state?

A. Yes, sir.

Q. You may state, Mr. Bogue, the extent of the terminals of this city?

A. Well, the right-of-way begins at a point—begins at the northeast corner of section 2, extends is a southwesterly direction through section 2 to section 3, passes through a portion of section 3, through section 10, through section 15, curves through section 22 and a part of section 23 to the southwest, thence passes through section 27, section 33, section 4, sections 9 and 10—through a part of 9 and 10.

Q. You had better, in that connection, if you can, state the township and range?

A. Well, the beginning of the right-of-way indicated is township 15 north, range 13 east, and the end of it given at the Douglas County line south; the right-of-way is of varying widths, some of it is 100 feet wide and at other places it is greater width. In addition to the right-of-way there is a great deal of outlying land used for the various tracks, sidings, spurs, etc.

Q. Can you give the exterior lines of the properties through which the right-of-way runs belonging to the company?

A. The exterior of the lines of the properties belonging to the company through which the right-of-way runs?

Q. Yes; I mean of all the properties forming the terminals; you can begin, can't you, up here somewhere and just trace it around?

A. I don't think I can make such a description without more dimensions than are on the plat; you could not understand it.

Q. Well, take the land that the shops are on, and give us a description of that?

A. The boundary of the shops: the north boundary is the south side of Izard street, and extends along Izard street from Eleventh street to a point about fifty feet north of Fourteenth street; the east boundary of the shop grounds extends from the northeast corner of Eleventh and Izard streets to the southeast corner of Eighth and Chicago streets; the west boundary of the shops extends from the point about fifty feet north of Fourteenth street and Izard street in an irregular line through blocks 322 and 332 and 352, thence in a curved line to the southeast corner of Davenport and Ninth streets, and the southerly boundary of the shop grounds includes the two southerly corners above described. The balance of the grounds includes the whole of blocks 65, 69 and 93, and a part of blocks "C", 94, 68 and 64; I can give the exact list of lots in the grounds from my statement.

Q. I wish you would do so?

A. Block 321, .76 of a lot; block 322, eight lots; 323, eight lots; 324, four lots; 324 repeated, 3.77 lots; 325, .08 of a lot; 331, 5.44 lots; 332, eight lots; 333, eight lots; 334, 6.9 lots; 354, two lots; 354, one lot; 355, eight lots; 356, eight lots; 357, eight lots; 358, 1.76 lots; block 3, 7⅔ lots; 4, eight lots; 5, 7.76 lots; 6, .05 of a lot; 28, 2.22 lots; 29, eight lots; 30, eight lots; 31, 5.14 lots; 34, 1.41 lots; 35, eight lots; 36, eight lots; 37, 4.49 lots; 63, 3.63 lots; 64, 4.97 lots; 65, 7.59 lots; 68, four lots; 69, eight lots; block "C", 3.04 lots; block 94, 2.05 lots; that completes the shop grounds.

Q. Do the shop grounds include the streets originally running through that tract of land?

A. Yes, sir; but the boundaries of the shop grounds include the streets; they take in whatever streets there are there, but these lots I have read off have nothing to do with the streets.

Q. Will you give a similar description of the depot grounds?

A. The depot grounds, I have it in square feet: Block 235, 38,201 square feet; 217, 8,316 square feet; 234, 18,766 square feet; 218, 45,408 square feet; 219, 55,111 square feet; 220, 4,320 square feet, total 170,122 square feet. Now those two descriptions comprise simply the shop grounds and the depot grounds; there are other lands used for other purposes.

Q. Well, describe the other lands?

A. Now, I am going to give you a detailed statement

of the right-of-way. In section 2, section 15 and section 13, in the northeast quarter and east half of northwest quarter, there are 9.67 acres; in sections 2, 15, 13, southwest quarters and northwest quarters, 1.6 acres; the North Omaha Addition, 16 lots; sections 3, 15, 13, northeast quarter and southeast quarter, 3.05 acres; same sections, southeast quarter, 3.05 acres; sections 10, 15, 13, northeast quarter, 3.05 acres; same sections, southeast quarter and northeast quarters, 3.04 acres; same sections, the east half of the southeast quarter, 6.39 acres; in McCague's Addition, 18 lots; sections 15, 15, 13, lot 4, 3.08 acres. The above right-of-way is north of the center line of section 15. The following property is outside of the right-of-way north of the center line of section 15; in sections 10, 15, 13, 24.4 acres; sections 11, 15, 13, lot 1, 15.8 acres; sections 14, 15, 13, lot 1, 26 acres; sections 15, 15, 13, lot 4, 7.02 acres; triangular piece east of blocks "L," "M," "N" and "O," 14.4 acres. The following described property is outside of the shop grounds and is between the center line of section 15 and a point where Sixteenth street intersects the main line of the Union Pacific: Blocks "L," "M" and "N," 24 lots; blocks 286, 299 and 300, 24 lots; blocks "O" and "P," 16 lots; blocks 313, 314, 327, 329, 32 lots; blocks 319, lots 3 and 4, 2 lots; 319, lots 5 and 6, 2 lots; 309, lot 8, 1 lot; 318, lot 2, 1 lot; 318, lot 7, 1 lot; 310, lot 8, 1 lot; 317, lot 2, 1 lot; 317, lot 4, 1 lot; 317, lot 6, 1 lot; 311, lots 6 and 7, 2 lots; 311, lot 8, 1 lot; 316, lot 1, 1 lot; 316, lot 2, 1 lot; 316, lots 7 and 8, 2 lots; 312

to 315, 12 lots; 326, 8 lots; 325, outside of shop grounds, 3.92 lots; 324, outside of shop grounds .23 of a lot; 330, 8 lots; 328, 4 lots; 331 outside of shop grounds, 2.56 lots; 358, outside of shop grounds, 6.24 lots; block 359, 8 lots; 360, 7 lots; tract east of block 360, 1.4 acres; block 1, 12 lots; block 2, 8 lots; block 3, outside of shop grounds, ⅓ of a lot; block 31, outside of shop grounds, 2.86 lots; block 33, 7 lots; block 32, 12 lots; block 34, outside of shop grounds, 6.59 lots; block 65, .41 of a lot; block 66, 12 lots; block 67, 4 lots; block 68, outside of shop grounds, 4 lots; block 6, outside of shop grounds, .66 of a lot; block 5, outside of shop grounds, .24 of a lot; block 28, outside of shop grounds, .65 of a lot; 63, outside of shop grounds, 4.37 lots; 94, outside of shop grounds, 38.4 lots; 95, 8 lots, 96, 4.8 lots; 97, 4.9 lots; 98, lots 1, 2 and 3, 3 lots; 99, .8 of a lot; 127, 7.4 lots; block "F", headquarters, 3 lots; block 129, .8 of a lot; block 130, 5 lots; blocks 156, 157, 2.4 lots; block 160, 5 lots; 181, 1 lot; 188, 8 lots; 179, 8 lots; 178, 8 lots; 187, 2 lots; 188, 4 lots; 189, 4 lots; 190, 2 lots; 191, 1.3 lots; 191, 2 lots; 191, 1.27 lots; 192, 2 lots; 192, .73 of a lot; 208, 7 lots; 203, west 44 feet lot 4, ⅔ of a lot; 202, north half, 4 lots; 201, north half, 2.76 lots; 200, south half, 4 lots; 224, north half, 3.35 lots; 225, lots 7 and 8, 2 lots; 226, north half, 3.16 lots; strip east of blocks 156, 160, 181, 178 and 208, .567 of an acre. The above list includes right-of-way.

Q. You mean so far as the right-of-way runs through those lands?

A. Yes, sir; I considered that as terminal land. The following described property, usually known as the Omaha Upper Yard, lies between the Missouri River bridge and Sixteenth street, and includes the right-of-way: Lot 4, fractional section 23, 13-15; 9.9 acres; block 215, 6 lots; 236, 6 lots; 216, 6.59 lots; 235, outside of depot grounds .92 of a lot; 206, 2 lots; 217, outside of depot grounds, .05 lots; 234, outside depot grounds, .08 of a lot; 205, 3.29 lots; 218, outside depot grounds, 2.8 lots; 204, 4.47 lots; 219, outside depot grounds, .08 of a lot; 203, south half, 3.41 lots; 202, south half, 4 lots; 201, south half, 4 lots; 223, 2.85 lots; 224, south half, 3.97 lots; 227, .9 of a lot; 226, south half, 3.07 lots; 255, 1.09 lots.

By Mr. Webster:

Q. I would rather you would give the number of the lots?

By Mr. Woolworth:

Q. You may give that, if you please?

A. I do not know whether I can from a map or not.

Q. You have not got it on the memoranda?

A. No, I haven't it in that way. 228, 1 lot; 231, 2 lots. The property described below is the right-of-way from Sixteenth street to South Omaha; Sixteenth street to Twentieth street, 7.3 acres, the equivalent of of 44.2 lots; Twentieth street to Twenty-fourth street, 7.8 acres, the equivalent of 47.4 lots; Twenty-fourth street to Martha street, 6.6 acres—the lots are not given; Martha street to South Omaha, 16.5 acres, equal to 96 lots. The following

described property is outside of the right-of-way: In section 28, usually known as the Sheely tract—northeast quarter of southeast quarter, section 28, township 15 north, range 13 east, 26 acres; right-of-way through South Omaha, north line of South Omaha to "F" street, 11.2 acres, equal to 54 lots; "F" street to "L" street, 55.54 acres, equal to 27 lots; "L" street to "Q" street, 6.16 acres, equal to 30 lots; "Q" street to Armour street, 6.39 acres, equals 43 lots; Armour street to Douglas County line, 11 acres, equals 74 lots, that is the property of Omaha according to that description.

Q. These descriptions include the streets where they have been vacated, do they not?

A. No, sir; the description I have read there seems to be the lots and blocks as platted, and the acreage and lots where there is no plat omits the streets; that is, suppose that the stieet is projected through and that is deducted from the total in making up.

Q. Do I understand you that in addition to the numbers of the lots and blocks you have given there are to be added the vacated streets?

A. Yes, sir.

Q. Can you tell me what streets have been vacated?

A. No, I can not now.

Q. Mr. Bogue, what is the location of these lands with reference to the other railroads centering at Omaha?

A. Well, the lands have been selected almost in advance of building the city and they occupy a very central

position, and are so located that other railways having terminals in this city are forced to a connection with them.

Q. What is the location of these lands with reference to the business part of the city?

A. Well, the location with reference to the business part of the city could hardly be improved; the city has been built up with reference to the railroad to a very great extent, and the lands are available or rather, they are equally accessible from all parts of the city for the business of the city.

Q. Do they stretch along the east line of the city?

A. Yes, sir; stretch along the east line of the city and divide the city into two parts, North Omaha and South Omaha.

Q. Can you give a description of the shops, their extent and equipment?

A. The shops are quite extensive, they include a large number of buildings, having an estimated value of $353,580.00, not including the machinery, supplies and other stores which the buildings contain. I can give a detailed list of the buildings if you like.

Q. I would like you to do it?

A. The repair shop, 16½ by 14½, small frame building; watch house, small frame building, 8½ by 6; track scales, 64 by 9; scale house, frame, 10½ by 8½, tool house, frame, 10½ by 8½; another tool house, 8 by 4; barn, 10 stalls; office room, frame building, 78½ by 36½; shed addition to barn, 36½ by 12; watch house, frame, 8½ by 5½;

another watch house, 8 by 6; track scales, 38 by 9½; this is the second track scales; scale house, 9 by 4; switch house, frame, 9½ by 7; another small repair shop, 9½ by 7; coal bin, 72 by 30; the above buildings are all of wood. Store house, frame, 101 by 30½; office and boiler room, brick building, 60 by 18; paint shop, 161 by 32; hose house, 8 by 6; ice house, 101 by 30½, frame; chemist's office, frame, 52½ by 20½; south addition chemist's office, frame, 18 by 14½; west addition, frame, 8½ by 6; "A" store house, office rooms, racks, etc., frame, 226½ by 45½; "C" counters and racks, frame, 105½ by 30½; "B", testing machinery at east end, frame, 245 by 45½; yard master's office, frame, 26½ by 16½; tool house, frame, 20½ by 14½; tank shop, frame, 30 by 30½, tank shop, frame, 181 by 30½; boiler shop, brick, 150 by 80; water tank, stone foundation, 31 feet in diameter; sand house, stone foundation, 60 by 24; round house, brick, 24 stalls, 59 feet deep; turn table, iron, diameter, 50 feet; clinker pit, double, 21 feet long, iron standards, etc.; jib crane, east and boiler house; iron rack east and boiler house, 14 by 23; fire heater house near turn table, 16 by 10, frame; tin shop, brick foundation, 50 by 40; tin shop addition, brick foundation, 28½ by 30; tin shop addition, brick foundation, 39 by 26; sheet iron roof on tin shop, brick building; old boiler shop, brick, 76½ by 50; machine shop No. 1, brick building, sheet iron roof, 121 by 60½; machine shop No. 1, engine room addition, brick, brick stack 85 feet high, 90½ by 25½; machine shop No. 1, second engine room addition, frame, 71 by 17½; machine

shop No. 2, pile foundation, brick building, 12 large doors, 150½ by 140; transfer table having four rails, frame, 58 feet long, the pit for this table is 94½ feet long; locomotive carpenter shop, stone foundation, frame building, 126 by 39; locomotive carpenter shop addition, stone foundation, frame building, 32 by 20, this building has an iron roof, stand pipe, water crane, stone foundation, 8-inch pipe; paint house, locomotive department, stone foundation, brick building, 32 by 20, iron roof; paint store house, locomotive department addition, stone foundation, frame building, 35 by 20; second paint store house, locomotive department addition, frame building, 12 by 20; track scales, 43 feet long, 9 feet wide; scale house, frame building, 9½ by 7; scale house, size not given; old oil house, stone foundation, brick building, 37 by 25, cement floor and celler; old oil house addition, south end, stone foundation, brick building, 9 by 25; old oil house platforms raised, size not given; new oil house, stone foundation, frame building, 120 by 40—this building has a stone floor, iron roof, is lined and covered with iron; new oil house, repetition, describes the tanks, six 15,000-gallon tanks; office superintendent motor power and machinery, brick building, 84 by 76½, tin roof; blacksmith shop, brick, 200 by 76½, iron roof; coal bin, 70 by 13; south end of foundry, brick, 49½ by 90, iron roof; south end of foundry repeated, brick, 26½ by 76½, iron roof; foundry, main building, frame, 200 by 76½, iron roof; core oven, brick, 34b y 17½, iron roof; engine room addition, brick, 34 by 16, iron roof; foundry addition, frame, 80½ by

41½, iron roof; another foundry addition, frame, 35½ by 17½, iron roof; another foundry addition, frame; 29 by 12½, iron roof; another foundry addition, frame, 25 by 15½; clay shed frame, 219 by 16; charcoal shed, frame, 34 by 16; coal bin, 120 by 34; iron house, frame, 140 by 43; Durant engine house, brick, 104 by 30, iron roof; Durant engine house tower, 11 by 11, 61 feet high; scrap-iron bin, 21½ by 16½; coal bin, 32 by 16½; scrap-iron bin, 48½ by 18½; foundry shed, frame, 119½ by 24½, iron roof; foundry shed, frame, 127 by 14½, iron roof; crusher shed, 24½ by 16½, iron roof; tower, frame; height, 25 feet, 13½ by 11; polishing shed, frame, 72 by 34; polishing shed addition, frame, 34 by 21; locomotive pattern shop, frame, 84 by 30; foundry carpenter shop, 21 by 16½; shed for brass filings, frame, 12 by 7½; foreman's office, 19½ by 16½, frame; hose house, 16½ by 10½, frame; watch house, Cass street, frame, 8½ by 6½; yard foreman's office, frame, 28½ by 16½; lumber office, frame, 25½ by 9½; truck turn table, 8 feet in diameter; lumber shed, frame, 100½ by 42½; dry house, brick, 74 by 21½, iron roof; watch house, Webster street, frame, 8 by 6; paint shop, frame, 16 by 10; paint and oil storehouse, frame, 30 by 20, this building is sheet iron covered and lined with brick; bolt storehouse, frame, 14½ by 12; air-brake shop, frame, 40½ by 20½; hose house, frame, 16 by 10; car machine shop, pile foundation, frame, 391 by 40; flat car shop, pole foundation, frame, 391 by 30, iron roof; passenger car shop, pile foundation, frame, 391 by 30, iron roof; passenger car shop, second one, pile

foundation, frame, 391 by 30; passenger shop, third one, pile foundation, frame, 391 by 40; engine house, 3 iron stacks, brick, 51 by 41½, iron roof; engine house addition, brick, 16 by 15½, iron roof, another watch house, frame; 8 by 6; oil house, frame, 12½ by 13½, covered with iron; blacksmith shop, frame, 40½ by 22½, lined with brick, covered with iron; turn table, cast iron, 45 feet, diameter of pit; old coal office, frame, 20½ by 14½; old coal office addition 14½ by 14, frame; another little addition to the coal office, frame, 8½ by 3; old coal scales, 23½ by 9; coal stable, frame, 50½ by 28½; coal stable addition, frame, 14½ by 12; coal shed, frame, 149 by 20; coal shed addition, 87½ by 24. That comprises all of the buildings except a number of other little ones, and some platforms; there is quite a number of platforms about there.

Q. Can you tell how many platforms?

A. There are seventeen platforms in different parts of the grounds.

Q. Have you mentioned the headquarters building, Mr. Bogue?

A. No, I have a separate item for that.

Q. You may give an account of the headquarters building.

A. Excuse me, there is quite a water system at the shops, consisting of water pipe left in the ground, which I have provided for.

Q. You might go on and tell about that water system; that, I suppose, is for protection from fire?

A. Yes; I do not know much about that system; I only know that it is there and extends all about the yard and the different buildings for their protection against fire, for the yards and the works generally.

Q. How is the water supplied?

A. I think that they pump it there themselves. The headquarters building is a large brick structure, I should think 100 feet square, I have not the exact dimensions, five stories high; it consisted of an old building, built a good many years ago, formerly the Herndon hotel, but was enlarged in the years 1886 and 1887; that is about all the description I have of the headquarters building; I placed a value upon it.

Q. Well, I will take up the matter of values by and by. You may go on and tell us about the depot?

A. I would suggest before we take up the depot we would finish the large number of buildings here in what is called the upper yards.

Q. Yes; go on with that?

A. Freight house with buildings near freight house: Tool house, frame, 14 by 8½; watch house, Seventh street, frame, 8 by 6½; repair shop, frame, 13 by 8; watch house, Ninth street, 8 by 7; watch house, Tenth street, 8 side, each 3½, frame; coal office, brick, 14 by 10; scales, 21½ by 8; watch house, Thirteenth street, 10½ by 8; switch house, Sixteenth street, 8 by 6½; new freight house with two story office building, brick, iron roof, iron trusses, etc., over tracks, 255,000 square feet. Omaha upper

yard, these would be all the buildings along the track from the Missouri River bridge to South Omaha: Switch house, Seventh street, frame, 12½ by 10½; track scales, 36 by 9; scale house, 7 by 10; watch house, Tenth street, frame, 6½ by 5½; addition to watch house, frame, 7½ by 7; yard master's office, frame, 36½ by 18½; switch house, frame, 30½ by 14½; stand pipe, that is all the notation about that; another switch house, frame, 9 by 5; coal heaver's house, frame, 14½ by 10½; tool house, Thirteenth street, frame, 14 by 12; addition thereto, 9 by 6½, frame; switch house, frame, 10½ by 7; hostler's house, frame, 16½ by 10½; another switch house, 7 by 5, frame; car repair and oil house, frame, 50½ by 20½; addition thereto, 22 by 20, frame; watch house, Seventeenth street, frame, 11½ by 9; another switch house, Twentieth street, 9½ by 6½; stable, Nineteenth street, 58 by 33, frame; watch house, Twenty-fourth street, 6½ by 5½; switch house, 10½ by 8½, another watch house in the Summit yard, 6 sides, each 4.2 feet, frame; another switch house in the Summit yard, frame, 7 by 5½. Buildings in South Omaha: I have omitted two platforms I think in that previous statement. South Omaha: switch house, frame, 20½ by 12½; tool house, frame, 10 by 8; car repair shop, 20 by 8, frame; oil house, frame, 10 by 7; express office, frame, 24½ by 18½; depot, frame, 84½ by 24½; stand pipe; watch house, frame, 6½ by 5½; scales, 44½ by 10; watch house, frame, 6 sides, each 4.2 feet; 1 platform. Albright: Buildings at Albright: depot, frame, 67 by 24½; depot addition, 18½ by 5, 2 platforms. Avery:

depot, brick, 24 by 20; coal house, frame, 14 by 8; 2 platforms. Gilmore Junction: switch house, frame, 6½ by 6½; it also has a signal tower and signal system. Gilmore Station: tool house, frame, 10 by 8; section house, frame, 24½ by 24½; section house addition, 16½ by 12; 2 platforms, mail train; depot, stone foundation, frame building, 70½ by 24½; this building has a cellar under it, 23 feet long and 8 feet wide; this station also has a stock pen, consisting of 1 pen and 1 chute, 1 platform; another yard has a part fence of some value.

Q. I don't believe I would follow that out any further on the line. Can you give an account of the system of tracks at the terminals in Omaha?

A. They are in the Omaha yards outside of the main track, 86.54 miles of sidings, spurs, etc. There are two main tracks from the bridge to Gilmore, of 9.8 miles each. In the Omaha yards outside of the shops there are 63.37 miles of track. In the Omaha shops there are 14.6 miles. At South Omaha, outside of the main tracks, 5.81 miles; at Albright, .99 miles; at Avery, .68 of a mile; and at Gilmore, 1.09 miles. These tracks consist of various weights of rail, all of which I can give approximately.

Q. Well, may you give them approximately, that is sufficiently exact?

A. Double main track, 4.71 miles, 60-pound steel; 2.38 miles, 67-pound steel; .61 of a mile, 70-pound steel; 11.9 miles, 75-pound steel; this treck is laid with 60,760 cross-ties of oak. In the Omaha yards, outside of the shop

grounds, there are 25.35 miles of 56-pound steel; 38.02 miles, 60-pound steel; these are laid on 55,766 cross-ties of oak and 111,531 cross-ties of cedar. The Omaha shops contain 5.84 miles of 56-pound steel and 8.76 miles of 60-pound steel; the shop tracks are laid with 12,848 cross-ties of oak and 25,696 cross-ties of cedar. These tracks are all provided with necessary switches of various kinds, some of which are stub-switches and others split-switches, and still others slip-switches. South Omaha to Gilmore, 3.45 miles, 56-pound steel; these are sidings; 5.14 miles 60-pound steel.

Q. Also sidings?

A. Yes; these tracks are laid with 7,542 cross-ties of oak and 15,083 ties of cedar, all provided with the necessary switch materials, etc., with an interlocking plan at Gilmore Junction.

Q. Can you tell us what machinery there is in the shops?

A. Yes, I can do that; it is a pretty long list.

Q. Can you condense it; instead of giving each separate item give something that would indicate the character of it without giving the list?

A. There are fifteen boilers, eleven stationary engines; one engine with blacksmith shears—that is a valuable machine; one electric light plant complete, with capacity of 1,660 candle-power lamps; one hot-water pump; one coal car; one steam-heating apparatus complete; fire engine; various hose carts, hooks and ladders, poles, torches,

et cetera; fire-alarm gongs. In the machine shops there are lathes, milling machine, drill presses, boring machines, hydraulic presses, slotting and shaping machines, turning and planing machines, flexible shaft machine, bolt machines, nut tappers, pipe-cutting machinery, gear cutters; hand-screw presses; valve-cutting machinery; cylinder-boring machinery; plate-planing machinery; patent vises, cornice brakes, air-compression system, several Knowles pumps, steam riveter, Brotherhood air engines, flexible shafts, and some other little items. In the pattern room there is a large number of patterns, many of which are required for the service of the railway and in their various repairs; some of them are old and not of any use any longer; all of the old ones I tried to omit; continuing in the machine shops, emery grinders, hydraulic guage-testers, steam guage-testers, grindstones, hangers, pulleys, chain, shafting, belting, flute-reamers, piston-reamers, counter-sink tools, various boring tools, benches and ratchets, mandrills and various kinds of gear-cutting tools, tapping and reaming machines, templets.

Q. Give us, Mr. Bogue, if you can, some idea of the capacity of these shops for the production of engines, and cars, passenger cars and freight cars; can you do that?

A. As the works are now fitted up, I should consider them sufficient for all the work between this and Cheyenne, and Denver, and a great deal that goes beyond in the shape of castings and things of that sort that they ship out to the other shops from here.

Q. Can you tell how many engines they can produce in a year?

A. No; I cannot.

Q. Or how many cars?

A. No, sir; but as compared with the other shops on the system I believe it a safe statement that the capacity is sufficient for all they have to do at present.

Q. What do you say as to the character of this machinery?

A. Some of it is old; it has been on hand a good many years, and other portions of it are now pretty good machinery. It has been recently provided with a compressed air system, which facilitates the use of the machinery a great deal, a great labor-saving apparatus.

Q. Is it practicable for any new road coming here to reproduce this property?

A. No, sir; I should say decidedly not, as to the terminal position.

Q. What is your estimate of the terminal property in Omaha?

A. Of the lands?

Q. Yes; give us the lands?

To which the State Board of Transportation objects for the reason that it does not appear that the witness is qualified to speak on the subject.

Q. State the aggregate, Mr. Bogue?

A. The aggregate value, as I have it, is $4,169,101;

that includes the right-of-way and terminal lands from Omaha to Gilmore, inclusive.

Q. What do you say as to the value of the structures?

A. The buildings, including furniture, shops and lower yard, $353,580; upper yard, including freight house and furniture, $101,350; headquarters building, including furniture, $135,000; South Omaha to Gilmore, $16,923, making a total of all buildings and furniture, from Omaha to Gilmore, inclusive, $606,853, not including anything for the so-called passenger depot.

Q. What do you say as to the roadbed, track and bridges and other erections going with the track?

A. I find the value of the clearing and grubbing necessary, $3,000; the grading, $343,939; track materials, track laying, etc., $686,764; ballasting at parts of it, $34,000; bridging, $256,533, not including the Missouri River bridge; that includes a number of short trestles in various parts of the line, an aggregate of 502 lineal feet; also includes a number of culverts and boxes, it includes the Eleventh street viaduct and a portion of the Seventh street bridge, the Union Pacific proportion of the Eleventh street viaduct and the Thirteenth street bridge, and also includes the Fourteenth street bridge and the Union Pacific proportion of the Sixteenth street bridge and the Twentieth street bridge. Under the head of "Miscellaneous" are grouped several items, cattle guards, crossing signs and markers, $1,176; right-of-way fences, $1,500; six section outfits, $960; telegraph line, $5,105, making a total of $8,741.

Q. Are you acquainted with the terminals of other companies in towns of the size and business of Omaha?

A. Yes; I had a great deal to do with other terminals, at Omaha, Denver, Kansas City, Portland, Oregon, somewhat smaller town than Omaha, Seattle, Washington, and San Francisco.

Q. How did you ascertain the value of the lands that form the terminals at Omaha?

A. From the values of adjacent lands as near as could be ascertained from transfers, valuations and inquiry. There have been some valuations placed, some upon some of the company property for other purposes, of which I had some knowledge, and there had been a few recent transfers. I had a man go about here and interview real estate agents who dealt in real estate in certain parts of the city, for instance, I sent him to somebody who dealt in real estate in South Omaha, and real estate through this part of the city and in the eastern section.

Q. What is your estimate of the value of the terminals at Omaha, having regard to the character of the property as terminal property of railroads, and any other circumstances that go to affect the value of property?

A. It is a difficult question to answer; the property is so situated that it reaches a very great amount of the business of the city, the warehouses, manufacturing plants, storehouses, etc., and I should consider its value as railroad property somewhat greater, I don't know how much, I should not place it at less than $10,000,000. I do not think

it could be bought for $15,000,000, if it was vacant; if it was occupied by private parties, I don't think it could be purchased for any amount scarcely. In the estimate I have prepared I have not included anything in the way of damages, which in the purchase of right-of-way, usually, the damages increase the cost, they cost three to five or eight times, even, the value of the property as land, but the damages for passing through cheap property are generally, the percentage is generally higher than it is in passing through expensive property.

Q. You mean proportionately?

A. Yes, proportionately higher; in purchasing right-of-way or terminal lands here there would be more or less damage in going through such a city, and I have no idea at all that values determined, as I have determined them, would be sufficient.

Q. You have had some experience with condemning land situated as this is, have you?

A. Yes, sir.

Q. I wish you would begin and state, begin at Gilmore or such other point as is convenient and state the character and value of the property in convenient sections to the west line of the state?

A. I will take the first section, Gilmore to Valley, and, by the way, each of these estimates includes the buildings at its western terminal, that is, in this case it would include the buildings at Valley. Main line, 24.97 miles, sidings, spurs, etc., 9.12 miles, total 34.09 miles;

right-of-way, $59,928; terminal lands, $4,345; clearing and grubbing, $2,000; grading, $124,286; bridging, $59,549; buildings, including furniture, $55,276; track, $220,164; ballasting, $25,800; miscellaneous, $:6,123; grand total $577,471. Section from Valley to Columbus: Main line, 56.52 miles, sidings, spurs, etc., 16.25 miles, total 72.77 miles; right-of-way, 56.52 miles, $84,788; terminal lands, $168,540; clearing and grubbing, $2,261; grading, $3,763; bridging, $14,197; buildings, including furniture, $86,332; track, $464,094; ballasting, $7,344; miscellaneous, $34,-073; grand total, $960,384. I might say that at Columbus the right-of-way from that on averages 300 feet in width. Columbus to Grand Island: Main line, 62.35 miles; sidings, spurs, etc., 26.1 miles; total, 88.45 miles; right-of-way, $124,700; terminal lands, $132,160; clearing and grubbing, $2,494; grading, $92,515; bridging, $135,933; buildings, including furniture, $287,703; track, $595,803; ballasting, $3,937; miscellaneous, $35,544; grand total, $1,410,789. Grand Island to Kearney: Main line, 42.2 miles; sidings, spurs, etc., 9.59 miles; total, 51.79 miles; right-of-way, $84,400; terminal lands, $114,360; clearing and grubbing, $1,266; grading, $34,708; bridging, $5,504; buildings, including furniture, $57,594; track, $349,139; ballasting, there is none; miscellaneous, $25,140; grand total, $672,111. Kearney to Julesburg: Main line, 176.09 miles; sidings, spurs, etc., 36.38 miles; total, 212.47 miles; right-of-way, $183,020; terminal lands, $70,560; clearing and grubbing, $3,522; grading, $180,433; bridging, $71,246; buildings,

including furniture, $305,457; track, $1,459,202; ballasting, $25,190; miscellaneous, $100,281; grand total, $2,398,911. Julesburg to Wyoming State line: Main line, 100.46 miles; sidings, spurs, etc., 15.81 miles; total, 116.27 miles; right-of-way, $48,221; terminal lands, $2,000; clearing and grubbing, $1,005; grading, $154,584; bridging, $76,870; buildings, including furniture, $110,427; track, $892,305; ballasting, $656; miscellaneous, $53,377; grand total, $1,339,445. I have the following summary between Omaha and the state line.

Q. You may give it, if you please?

A. Missouri River to Wyoming State line, summary: Main line, 472.39; second main track, 9.8 miles; sidings, spurs, etc., 199.79; total track, 681.98 miles; 1st, right-of-way, $2,975,009; 2d, depot grounds and terminal lands, $4,670,066; 3d, clearing and grubbing, $15,588; 4th, grading, $1,029,228; 5th, bridging, $635,436; 6th, buildings, including furniture, $1,509,642; 7th, track, $4,667,471; 8th, ballasting, $96,927; 9th, miscellaneous, $283,279; total, $15,882,666; 10th, engineering, superintendence and contingencies, 10 per cent. of above, $1,588,266; grand total, $17,470,932; per mile of main line, $37,003. Average value not including the equipment, stationary engines and boilers, etc., and some other items.

Complainants offer in evidence certified copy of the order of this Court, which is hereto attached, marked Exhibit "15".

Adjourned until 10 o'clock tomorrow morning.

OMAHA, Wednesday, April 25, 1894, 10 A. M.

Pursuant to adjournment, the further taking of testimony is resumed, as follows, viz:

CONTINUATION OF DIRECT EXAMINATION OF THE WITNESS, MR. BOGUE.

By Mr. Woolworth:

Q. In your statement, heretofore made, with reference to this property and its value, you have no item for what is sometimes called adaptation; state what is covered by that term?

A. That term is used by some engineers to express the improvement of a road due to its use and adaptation to its surroundings, and to its environment, if I may call it so; when a road is first built there at once takes place a great deal of settlement which has to be repaired, and that settlement and repairs incident thereto continues for some time, often for a term of years; holes have to be filled up and shrinkage supplied with material to bring out the embankment to its full width, slopes of cuttings wash down and the roadway has to be protected from floods and washouts by the use of rip-raps and other materials, brush, etc., and that is all work which you can hardly discover it by any kind of survey after some years, and in making an estimate based on the bare profiles of the road, as for a new property, you would not catch it at all. The adaptation may be called the value of the accumulated improvements of the roadbed due to its age and use.

Q. You mean after the line is open?

A. After the line is open for traffic; then a great deal of grading is done about station grounds from year to year which no estimate of a new line would include, and which I have not tried to include in the previous figures which I have given, those are matters which I can hardly measure, and which can hardly be measured, and so far as engineers deal with them, they usually accept the figure per mile, and consider that the capitalized value of the road is about so much more than the profiles and records might show.

Q. You have not included that item in your figures heretofore?

A. I have an item for it, but I have not given it before; I have for the main line of the Union Pacific called it $1,800 per mile of main line, making $850,102.

Q. You think that is a fair estimate?

A. I think it is a fair estimate.

Q. I believe you did not give the value of the machinery which you gave an account of?

A. No, sir.

Q. Will you give that estimate?

A. The stationary engines, and boilers, tools and machinery, etc., pertaining to the main line of the Union Pacific in Nebraska I have fixed at $440,750.

Q. You think that a fair estimate?

A. Well, I have not personally investigated those tools; I received from the superintendent of the motive power a statement showing the total value of all of his equipment, tools, etc., connected with the shops, and con-

nected with the repairs, buildings, locomotives and cars, and I have been obliged to accept that; it would take a great deal of time and cause a great deal of expense to undertake to inspect them; I have cut down the items somewhat, I threw out the greater part of his patterns as having no particular value at present. The estimate for his materials, stores and buildings on hand is likewise not my own, that was supplied by the purchasing agent who gave me a statement covering everything he had on hand on the system, and I segregated from that what I considered proper for the Nebraska division.

Q. What figure did you fix?

A. $362,883.

Q. You did not include that in your statement heretofore?

A. No, sir.

Q. Now, I wish you to state the facts with regard to the depot at Omaha?

A. The Union Pacific has in the depot $257,522 of actual expenses; the total expenditures on that account by the Omaha Union Depot Company, so called, is $515,043.80, that is made up as follows: Main building, $116,138.76; mail and express building, $3,890.86; train sheds, $3,279.64; I might explain that that item of train sheds is largely made up of expense required for making the plans; several plans were made and it was some time before a definite one was accepted; temporary work, that would include a lot of work done there in connection with the build-

ing of tracks which were used for that building, $20,789.05; grading, $4,253.75; clearing, $1,900.90; sewers and drains, $1,319.78; plans and specifications, $16,951.27; engineering and superintendence, $9,700.49; ballast, $713.84; legal expenses, $3,647.70; general expense, $3,084.11; real estate, these are new purchases not included in any Union Pacific estimate heretofore given by me, $114,983.96; Tenth street viaduct, $197,162.04; Seventh street bridge, Union Pacific proportion, $17,221.65; total, $515,043.80. Now, those items were given me by the Union Depot Company; I have not verified them, but much of this work was done while I was with the company and I believe the figures given to be correct; I know they are with respect to the Tenth street viaduct and the Seventh street bridge.

Q. Have you seen the estimate made by Mr. Wakefield of the cost of construction of a mile of railroad in this state?

A. Yes, sir.

Q. What have you to say about that?

A. Respecting Mr. Wakefield's estimate, in my opinion, his figures would do quite well for some portions of the state, but would hardly fill the requirements for the more populous and settled portions. The cost of construction varies so much, especially on account of right-of-way, that any such estimate as applied to a particular line would give very incorrect figures. Mr. Wakefield's estimate for grade I think somewhat low; he seems to make no allowance for any material but earth, which can be handled by scrapers,

nor for the extra price of grading depot grounds, where occasionally it is necessary to haul the materials a considerable distance; the grading of depot grounds is a very considerable item; where the line passes through villages or cities a closer estimate of the grading for many lines would be 18,000 cubic yards at 14 cents, $2,520; 3,000 cubic yards at an average price of 20 cents, $600; total of $3,120. I do not understand his estimate for span bridges which he gives at $5 per lineal foot; for a short span of a few feet, resting on mud-sills without the use of piles $5 may be sufficient, but where piles are used, as they are in many cases, the price should be greater; if he refers to long spans his price is much too low; a steel span of 100 feet in length, not including supports, will cost in Nebraska, about $4,800, or $48 per lineal foot. Mr. Wakefield uses but 2,800 ties per mile; it is now generally customary to use seventeen to eighteen ties per pair of rails, or from 2,992 to 3,168 ties per mile. His price for ties may be satisfactory for Sioux City delivery, but for Omaha delivery the price given by the Union Pacific is 58 cents. The Burlington chief engineer reports that he is charged for all new construction, 55 cents per tie by the store department; I assume that the difference of 3 cents between the Burlington's price and that of the Union Pacific is caused by the fact that the Burlington has some lines east of the river which may reach or go somewhere near regions where the ties are obtained. Using the Union Pacific price, and 2,992 ties per mile, Mr. Wakefield's estimate would be increased $475. His estimate for steel rails I should

consider for present prices as satisfactory, but during 1893 rails ruled at a price of about $33 at the river, to which, for the Burlington road, should be added some other items for charges of handling and matters of that kind. In my estimate I think I have used $34 and a fraction as the value of rails on cars ready for shipment to the front; that was last October or September. The Union Pacific 60-pound rail really weighs about 61.5 pounds per yard, or per mile 96.64 tons, but I understand the Union Pacific is now using 70-pound rails on its renewals on all the important lines. Accepting Mr. Wakefield's price as correct, his estimate would be increased on account weight 15.71 tons, or $503. Mr. Wakefield gives a rather less weight of angle-bars than most companies I think are now using. Such bars vary in weight all the way from 22 to 60 pounds per pair; those of the Union Pacific weigh something over 50 pounds per pair and cost per mile of 70-pound rail $534. Likewise the Union Pacific bolts and nuts per mile of rail $68, nut locks $18, and spikes, of which there would be, of course, an increase on account of difference in number of ties, $161, making a total for fastenings of $781.00, and increase of $203.00. If we may consider Mr. Wakefields prices for track-laying and ballasting as corresponding to what we generally understand as tracklaying and surfacing, I should consider them nearly right, somewhat lower than what I have used in the estimate I have prepared. There is but little ballasting on the Union Pacific, that is ballasting done in such a way that it can be measured

up as completed and have a value placed upon it; a great deal of work in this line has been done, however, which I have considered under the head of adaptation. Ballasting in Nebraska costs all the way from $2,400 to $3,500 per mile, according to the kind and amount of materials used, excepting gravel ballast, which, where it can be obtained near at hand, can be put under the rails at a less cost. When a line is under construction, if the ballasting can be done at the time the track is laid and the track be surfaced with the ballast itself, considering the ballast as gravel obtained along the sides of the road or points near at hand, within a few miles, the track laying and ballasting can then be done for all the way from $1,000 to $1,500 per mile, according to the amount of gravel used. When the gravel is at the ends of the ties, the track laying and surfacing, or ballasting as you are pleased to call it, need not cost to exceed $1,000 per mile, unless a great deal of ballast is used. The ballasting of track, which may be done during construction, however, usually has to be gone over at another date later, after the road has been used, and it is generally done at such times; when it is done during construction it is frequently done in rather a loose manner and hurriedly. Mr. Wakefield gives as his estimate of cattle guards, per pair, $46.00; where piles are used, in the Platte River country, the cattle guard costs about $72, Union Pacific standard. This would make an increase of $112; where piles are not used the cost is about $60 for a cattle guard, or $120 for a pair, making

an increase of $74. Wire fences Mr. Wakefield places at $250 per mile, and of course the cost of fencing is dependent on the number of wires used; it may be anywhere from $250 to $400 per miles; the Union Pacific standard wire fence cost $375 per track mile; that figure $375 is one given, it is the result of a good many different reports which have come in at a good many different times, some of which I have seen. If that price be accepted over Mr. Wakefield's price, would be $125. The cost of a complete set of Union Pacific switch material for 75 pound rail, No. 10 frog, including 4 per cent. for store department charges, is $165, which would increase Mr. Wakefield's estimate $34 per mile. Mr. Wakefield's estimate for water service would do very well in some places, but in many cases a great deal of expense is involved; sometimes the first attempt to get good water is unsuccessful, sometimes there is trouble with the well, the consequence being that a water station sometimes runs up to $5,000, or even more. The water stations of the Union Pacific line are all first-class and have cost all the way from $3,000 to $5,000. I think it would be fair to increase Mr. Wakefield's estimate on this account for any application to the Union Pacific, by the sum of $66 per mile. Station houses on the Union Pacific have cost all the way from $2,500 upward. Mr. Wakefield's estimate of $2,500 per station will do for a line running through many localities, considering a new line, but running through or near large towns a road having much business to do would find station houses at $2,500 each inadequate for the business. I don't

suppose that the depots on the main line of the Union Pacific have cost an average of less than $5,000 each; that statement I can verify and correct it in the evidence, perhaps. Mr. Wakefield estimated a telegraph line for the ordinary line, his estimate in my judgment is sufficient, that of the Union Pacific has been somewhat more because it has a greater number of wires. Mr. Wakefield's estimate for engineering is very fair, and is sufficient for many lines; in the case of a line like the Union Pacific, however, supplied with buildings, a great number of tracks, sidings, extensive terminal grounds, and all that goes to make up a great property of an old road, I think the allowance would be entirely inadequate. If you will permit, I will give the cost of engineering on some of the lines I have built, particularly where there were a great number of tracks, to show how the cost of engineering has increased by the necessity of looking after the construction of large yards. Take the Montana Union property at Butte and Anaconda—

The State Board of Transportation objects to this as irrevelant and immaterial, and not relating to the construction of lines in the State of Nebraska.

A. One of the lines called the Walkerville, which runs up on the hill at Butte, the engineering cost $1,119 per mile; another branch on the hill at Butte cost $1,931 per mile. If you take the line in Wyoming from Cheyenne to Wendover the cost was about $600 per mile; that line is a line having but comparatively few sidings, the buildings and everything included with it were inexpensive; take

some of the lines in Kansas, Garrison to Marysville, the engineering cost $640 a mile, while the Union Pacific, Lincoln and Colorado line, cost $557 per mile.

Q. Where was that road?

A. That road runs from Salina to Lincoln Center; between Lincoln and Colby the engineering ran all the way from $475 to $557 per mile; that line was built through a new country, provided with inexpensive structures and sidings. Where a property is provided with large yards and a great deal of money is expended, not only in building, the actual expenses, the field expenses of the engineers, but the planning of yards, is sometimes a very considerable problem, and costs a great deal of money. The engineering, in connection with the right-of-way and terminal grounds is also sometimes an expensive matter.

Q. Have you anything further to say about that statement?

A. I have looked over the passenger equipment somewhat, the passenger and freight equipment. I obtained prices sometime ago in Chicago for various classes of cars, and they run about as follows: Mr. Wakefield gives for box cars, $500 each; the price I have is $525; furniture cars, Mr. Wakefield has no furniture cars, but the price I have is $575. Mr. Wakefield has also omitted caboose cars, possibly intends to run mixed trains with a coach at the end of a freight train but the price I have is $1,000. Mr. Wakefield gives stock cars at $400. The price I have is $500. There is a good deal of difference in the stock cars, some of them

are got up quite elaborately, and I think the difference can be accounted for by that and by the difference in the brake equipment. Mr. Wakefield has not provided for refrigerator cars, that may not be required for a road 100 miles long, but a road of greater length, one extending through the state, I should think would necessarily need them. They cost $650 each. Coal cars, $425 each, Mr. Wakefield has none, and perhaps could get along without them for 100 miles of road, possibly could get along without them at all, if they bought the coal in some other part of the country and had it brought here in other people's cars. His price for way cars I consider as satisfactory; way cars are of various constructions; it may be, in his case, he intended them as cabooses; I think they are sometimes called way cars. The derrick of the best class is reported worth $8,000 at Chicago, that would be a derrick car for clearing the track of wrecks. A derrick and pile driver car is reported worth $6,000; Mr. Wakefield gives $5,025. A first-class chair car in Chicago is reported worth $5,700, and an ordinary coach, $4,000; baggage and express car reported at $3,250. Mr. Wakefield gives $2,500. Baggage, mail and express car at $3,550; Mr. Wakefield gives mail and express cars, $3,000; locomotives, 10 locomotives at $8,500 each, is perhaps sufficient for 100 miles of road; locomotives of all the principal railways, however, contain—are many of them more expensive, running up as high as $10,000 or even $11,000, intended for the hauling of long trains, it being demonstrated that the longer the train is with one engine the less expen-

sive the rate per ton per mile becomes. I do not know, however, that I would criticise that estimate of $8,500, that is the average per engine; some of those engines could be of less value, and some more, so that might be a fair average rate. Mr. Wakefield includes in his estimate for equipment the value of terminal grounds, shop grounds, round houses, etc., $200,000, and I think that would be satisfactory in many portions of the state, but the moment you build into the more settled and populous portions the expense of those items increases very greatly. The right-of-way or terminal grounds near the large towns is one of the principal items of expense in building any new line in these times. It has been credibly reported to me that in the construction of the Rock Island line from South Omaha to Jansen, in Jefferson County, that the expenditure for right-of-way and terminal grounds was $9,267.80; this includes their terminals in South Omaha and Lincoln, and South Omaha and Lincoln were the only towns touched by the line at the time the right-of-way was acquired; whatever it will cost to perfect the imperfect titles will have to be added to this amount. In the building of the Rock Island line across the portion of the southern tier of the counties of the state, including Richardson County, Pawnee County, Gage County, Jefferson County, Thayer County and Nuckolls County, the right-of-way and depot grounds cost all the way from $830 in Nuckolls County to $2,712 in Jefferson County. I think that is all I can say about that.

Q. These cars that you speak of, freight cars, have to

be supplied with automatic couplers after they are purchased, don't they?

A. Well, I think they sometimes supply them in the shops where they are purchased and some times it is done by the railroad companies. These prices I have given for Chicago delivery—or I will call it Missouri River delivery—include the brake equipment, the air-brakes.

Q. You say the stock cars are of different styles?

A. Yes; the Union Pacific Company builds a particular style of stock car and that car is worth about $500; it is so reported to me in Chicago by men who have built some of them.

Q. Other stock cars are of various styles and of very much more expensive construction, are they not?

A. Well, I suppose there may be some of more expensive construction, but I think $500 each is enough for the ordinary stock car; there are stock cars built for these companies which handle stock known as palace stock cars and palace cars for horses, and all that kind of thing which cost a great deal of money—I do not know what they do cost—I am talking about stock cars used by the Union Pacific in shipping cattle, the stock car they now build.

Q. Did you investigate the market price of these different cars in Chicago so as to state what the market price was, or did you merely state what the price was that some one or more, or small number of persons gave you, without informing yourself of the market price?

A. Well, these prices were given to me by George W.

Cushing, the former superintendent of motive power and machinery of the Northern Pacific and the Union Pacific, as the prices which were ruling at that time in the market in Chicago.

Q. Then you can only state what the market price was by the report made by him to you?

A. Made by him to me.

Q. Do you think you can state whether or not these prices were the market price?

A. I think they were at that time beyond any question, that was several months ago.

Q. The Rock Island has no terminal in Omaha, has it?

A. They have only what they got under their lease with the Union Pacific, as I understand it; they have some terminal property and tracks in South Omaha; I think they have spent some $206,840 in Omaha; they expended at Lincoln $75,550.

Q. I wish you would give us the acreage of the Union Pacific in Douglas County, to Gilmore, giving the number of acres in right-of-way and in the different yards of the Union Pacific, and in the depot grounds, and other items, so that we will have a perfect statement of the acreage in each separate parcel of grounds, can you state, taking it generally?

A. I will try to make these correspond with the division of grounds formerly mentioned. Right-of-way north of lower yard, that north of center line of section 15, 39.66 acres; land outside of right-of-way north of lower yard, 87.8

acres; lower yard, outside of shop grounds, 152.18 acres; shop grounds, 72.39 acres; depot grounds, 10.54 acres; Missouri River bridge to Sixteenth street, outside of depot grounds, 29.72 acres; Sixteenth street to South Omaha, 38.2 acres; through South Omaha to Douglas County line, 29.09 acres; outside of right-of-way in section 28, 26 acres; this is usually known as the Sheely tract. Total to the Douglas County line, including streets and alleys, 485.58 acres. Douglas County line to Gilmore, 12 acres. Grand total, Omaha to Gilmore, 497.58 acres.

Q. Now, can you tell the length of the line from the initial point to Gilmore?

A. Well, yes; there are two or three initial points in connection with this.

Q. Well, take the point furthest north that you mentioned?

A. I cannot give that at once; I have that somewhere but it will take me sometime to look it up, and in fact, I think I shall have to get it at the office if it is wanted. I can give the distance from the Nebraska state line to Gilmore.

Adjourned until 2:00 p. m.

OMAHA, Wednesday, April 25, 1894, 2 P. M.

Pursuant to adjournment the further taking of testimony is resumed as follows, by the cross-examination of the witness, Virgil G. Bogue, by Mr. Webster.

1400 CROSS-EXAMINATION.

Q. Where do you now reside?

A. Chicago, Illinois.

Q. How long since you severed your connection with the Union Pacific Company?

A. I severed my connection with the Union Pacific Company proper the first of February, 1890, but my relations with that company did not cease until September 1, 1890. I had some business to transact for them after my relations with the company as an official of that company had ceased.

Q. When did you last live or ever live in the State of Nebraska?

A. The first day of February, 1890.

Q. And you had lived in Nebraska how many years prior to that date?

A. Since December 15, 1886.

Q. Did those four years cover your entire period of residence in the State of Nebraska?

A. Yes, sir.

Q. The year 1886 was the beginning of the first official connection you had with The Union Pacific Railway Company?

A. Yes, sir.

Q. Prior to that date you had nothing to do with the construction of its lines of road or the maintenance thereof?

A. Nothing whatever.

Q. You do not, then, wish to be understood in the

testimony that you have given, as stating the cost of the original costruction of the Union Pacific Railway lines in the State of Nebraska?

A. No, sir. Excuse me a moment—in mentioning original construction, you refer to the original cost of the construction years ago, prior to 1886?

Q. Yes, sir.

A. Yes, sir; my answer is correct.

Q. With reference to the terminal properties of The Union Pacific Railway Company at Omaha, those properties were substantially all acquired long prior to 1886, were they not?

A. The most of them were acquired previous to 1886, and probably most of them long prior to 1886.

Q. The fact is, is it not, that most of those properties were acquired from 1864 to 1870, were they not?

A. Yes, sir; probably.

Q. And you are familiar with another fact, are you not, that nearly all those properties were given or granted to The Union Pacific Railway Company by the City of Omaha without any money consideration being received by the city therefor?

A. I am not familiar with that fact only as respects the depot grounds.

Q. And what do you understand that fact to be with reference to the depot grounds, that they were granted to the railway company without any money consideration?

A. Yes, the most of them, the consideration being

that the company should put up certain structures there on those grounds and use them for certain purposes.

Q. And by that you mean the grounds that are described in your present testimony as constituting the depot grounds?

A. Yes, sir.

Q. Aside from that a moment, you also have been informed have you not, that the City of Omaha in that early day also gave or granted to The Union Pacific Railway Company a bonus of several hundred thousand dollars in the way of bonds, without receiving any money consideration therefor?

A. No, sir; I am not familiar with that.

Q. By that answer you mean simply to say you are not informed as to the correctness or incorrectness of that?

A. I do not think I have ever been informed before of that, if I have been I had forgotten it.

Q. In describing what you have termed the terminal lands or grounds of the Union Pacific, have you not taken into account as a part thereof the entire line of the Union Pacific within the incorporate limits of the City of Omaha, and also the line down to and including the City of South Omaha, an independent municipality, and also the line further west to Gilmore?

A. Yes, that has all been included in Omaha.

Q. In your estimate of the terminal grounds?

A. Yes, sir.

Q. Gilmore is in the County of Sarpy, is it not?

A. Yes, sir.

Q. And that station is how far from the imaginary or supposed depot in the City of Omaha?

A. Well, it is approximately 9.6 miles.

Q. Gilmore is a little station out in the country that does not even have any village surrounding it, is it not?

A. Gilmore is a mere termination of the double track of the Omaha terminal.

Q. There is nothing at that point save a little frame depot and one dwelling house?

A. There are very few structures there of any kind; it is simply the terminus of the double track.

Q. Well, between that Gilmore Station and the station in Omaha there are how many other stations?

A. Four.

Q. Will you give the names of them?

A. South Omaha, Albright, Avery and Gilmore Junction.

Q. In describing the right-of-way and lands of the company between Omaha and Gilmore, I notice you included twenty-six acres of land called the Sheely tract?

A. Yes, sir.

Q. I will ask you what that land is used for?

A. That land has been used as a brick yard for some time, and the company had a contract with parties for the use of the clay on that land, intending to have it disposed of somehow, and to ultimately make use of it as grounds for tracks or buildings or other purposes for which the company might have some use, or to lease it to other people.

Q. That ground does not constitute any part of the right-of-way of the Union Pacific Company?

A. That twenty-six acres outside of the right-of-way does not constitute any part of the right-of-way, no, sir.

Q. It has no railway tracks thereon, has it?

A. Well, yes; it has some tracks in connection with the brick works that are there.

Q. Do you mean by that there has been a switch run in to where the brick kiln is located?

A. Yes, sir.

Q. That is all?

A. That is all; I think there is a couple of sidings there, but they are all used in connection with that brick business.

Q. Do you know whether there is any brick business being carried on there at all, at this time?

A. I do not think there is, although I do not know.

Q. Is it not a fact that that tract of land has never been utilized as a part of the right-of-way and had never been utilized for actual terminal purposes of the Union Pacific Company?

A. So far as I know, it has never been used for that purpose.

Q. Whether or not it may in the future is, of course, dependent upon the will of the future management of the road?

A. That property, as I understand it, is held as property to be used when required.

1405

Q. That time has never come yet?

A. No, sir; I might state, however, that some discussion has been had, if I remember correctly, as to the usefulness of that land for a round house or something of that sort, for the locomotives employed in that part of the yard, but no steps have ever been taken to carry out any idea of the sort, so far as I know.

Q. Now, touching the right-of-way through South Omaha, is it not a fact that that right-of-way was acquired and the road through that town was constructed long before the building of South Omaha was ever conceived of?

A. Yes, sir; that is a fact, although I do not know it from any personal experience.

Q. You know enough about the Union Pacific to know the main line was built through there in 1864 or 1865?

A. Yes, sir.

Q. And that South Omaha as a town was not started until within the last few years?

A. Yes, sir; that is right.

Q. What was the source of your information upon which you gave your answer as to the estimated value of the shops at Omaha?

A. Well, I can make a general answer to that question, which includes the buildings in general; there is kept in the office of the chief engineer a book called the "structure book," in which there is a complete list of all the buildings and other structures of the several divisions of the

road, and this book is kept posted up to correspond with changes that may be made from time to time.

By Mr. Woolworth:

Q. To save my recurring to this—was that book kept when you were chief engineer?

A. Yes, sir; it was in the office of the resident engineer before I went on the Union Pacific, and it was taken to my office afterward, and was kept there until I left the company, and is still in that office, and they posted it up from time to time. Now, many of the old buildings of the company which are described in that book—those built in recent years, were built under my own direction, and I know the cost of those buildings, of all the buildings built under my direction, nearly all of them from the correct returns. Those buildings built under my direction were, many of them, of similar character to other buildings which had existed previously, and by knowing their cost, per building, or per square foot of area, I can approximate closely the cost of buildings which were built before I went on the road. That information gives me figures which I could apply to a great many of the buildings without going into all the detail of getting up the bills and material, which would be an interminable work. The cost of some buildings was ascertained by getting at the bills of material, not many. The buildings at the shops, there was personal inspection of the buildings at the shops to ascertain if the buildings in the list were actually on the ground; only some minor discrepancies were found, and the estimate is for the

correct list. The actual cost of all the buildings constructed within the past five or six years was ascertained as I have described, and the figures ascertained as I have described were used where it was evident that such figures applied to buildings of similar classes; in the matter of ordinary depots, the actual cost of eleven depots was obtained.

By Mr. Webster:

Q. I am not asking of that now, that is getting foreign to the subject. I want to find out from you how you arrived at your basis of the estimate of the value of the shops?

A. I have described that in general.

Q. That is in short, then, Mr. Bogue, that you took the data that you found set down in that book which you say was kept in the office of the engineer, purporting to be a statement of the cost of these respective buildings?

A. No, sir; the structure book contains simply the dimensions of each building and the class of material of which the buildings are made; if the buildings are of brick, they are so described, if they are timber, they are so described. A personal inspection of the shop buildings was then made and that book was compared with the results, and a correct list made; that is, the structure book was corrected to agree with the personal inspection; there was some minor discrepancies in little matters; the list I have given is correct.

Q. I do not think you apprehend my question, Mr. Bogue, I am only asking you as to the cost, not as to the

character or size, and so on, of these buildings, whether you took the items of cost of construction, from the items which you found set down in this book?

A. The items of cost of many of the buildings were arrived at as I have described, many of them were built under my own direction, and their cost I knew.

Q. Now, I will get at this a little more specifically; take the buildings that were built before you ever saw Omaha, or before you came here and before you were connected with this road, you had no personal knowledge of what those buildings cost, did you?

A. No, sir.

Q. Did you find anything set down in any of those books touching what they cost?

A. No, sir; very little.

Q. Now, when you state that the estimated value of the shops was $353,580, did you ascertain what those buildings had cost that were constructed before you came here?

A. No, sir.

Q. And the Union Pacific did have shops here before you came here, did it not?

A. Yes, sir.

Q. It had roundhouses and repair shops, and car shops, and coal houses, and oil houses, and watch houses, and all such things?

A. Yes, sir.

Q. Now as to all those buildings, then you had no personal knowledge of what they had cost?

A. I had known they were built before I came here.

Q. Are you a builder by profession?

A. Yes, sir; a railroad builder, a civil engineer.

Q. You are not a carpenter nor a brick mason?

A. I am not a carpenter or a brick mason.

Q. You have neither been a contractor for the building of houses, have you?

A. No, sir.

Q. Now, have you set down in that book to which you have referred while testifying, the cost of such of the buildings as were constructed during your administration as engineer of this road?

A. Yes, sir; most of them are found, not in the structure book described, but in the other books and papers in the engineer's office.

Q. Have you with you here the book referred to which would contain the information as to the cost of these buildings constructed under your administration?

A. No, sir; I have not the book, but I have some statements of the cost of such buildings.

Q. Did you, yourself, transcribe that statement from the books?

A. No, sir.

Q. Who did that for you?

A. I had that done in the chief engineer's office.

Q. Do you know who it was prepared for you that statement?

A. Mr. W. F. Thomas.

Q. Is that the statement you have used in giving your testimony upon this point?

A. Yes, sir.

Q. In describing the buildings located upon these terminal grounds, constituting a part of the shops, you proceeded to itemize the size of about 100 buildings, more or less; did you read those memoranda of dimensions from a book while testifying?

A. Yes sir; from my own records.

Q. That was a book kept where?

A. That is a book containing the estimate of the cost of the buildings prepared for this especial testimony.

Q. Then that book was written by whom, in so far as it gave the dimensions of these buildings?

A. Written by Thomas Appleton.

Q. Who is Thomas Appleton?

A. Thomas Appleton is a civil engineer of Chicago.

Q. He is not in Omaha at this time?

A. No, sir.

Q. And was he ever here?

A. Yes, sir; he was here.

Q. When?

A. Mr. Appleton was here for two years and a half, I think, prior, and I don't know but three years prior to 1890.

Q. He has not been here since?

A. Yes, sir; he was here to help me in preparing this statement.

Q. Do you mean he came to Omaha?

A. To help me prepare this statement.

Q. And while here he wrote up that book for you?

A. Yes, sir.

Q. From which you have testified?

A. Yes, he wrote up this book under my direction and instructions.

Q. Do you know whether he went down there and took the measurements of these buildings for the purpose of writing up that book?

A. I know he spent two or three days looking about the buildings of Omaha, and I think a half day or so at Council Bluffs, correcting the structure book, or comparing the structure book with what he found on the ground.

Q. You do not know, do you, that while doing so he took the measurements of any buildings?

A. I do not know just what measurements he took, but I think he measured some of them; he had to, I believe; my impression is some of the measurements were lacking in the construction book; he also took some additional data which he did not find in the structure book, especially relating to foundations and roofs.

Q. On what day was it, previous to the giving of your present testimony, that Mr. Appleton delivered to you this book for your use in giving this testimony?

A. Some day in October last; early in October.

Q. The first building recited in your testimony was a repair shop, 16½ by 14½, frame building?

A. Yes; that was doubtless what is known as a car

repair shop; it is one of these little buildings used by car repairers.

Q. As a matter of fact, you do not know, personally, near what buildings that was located?

A. No, sir; I don't.

Q. The next was a watch house, 8½ by 6; you have no personal knowledge of the location of that building, have you?

A. I did not make the inspection of those buildings for this estimate; that inspection was made under my direction; I had not the time to do it.

Q. Then you do not know where that building is located?

A. No, sir; I know that building, however, is in the lower yard.

Q. You do not know what that building cost of your own knowledge, either, do you?

A. No, sir.

Q. And you don't know, of your own knowledge, what the building last above mentioned cost?

A. No, sir.

Q. Now what I have asked and what you have answered as to those two buildings would also apply to the next building, would it not, a scale house, 10½ by 8½?

A. That would apply to a great many of these smaller buildings, the shops in general there I am acquainted with, and have often been in and about them.

Q. By the shops in general you mean the larger buildings?

A. All the principal buildings.

Q. Now, many of these buildings that you have read the dimensions of from that book prepared by Mr. Appleton are buildings which have been on those grounds for a great many years, have they not?

A. I think most of them have been there a long time.

Q. And all these buildings are frame, are they not, except when you have recited in the testimony given that they were of a different construction?

A. Yes, sir.

Q. And some of these frame buildings have been standing on these grounds for twenty to thirty years?

A. I presume so, yes, sir.

Q. Well, that is pretty near the life, is it not, of a frame structure in this country?

A. Well, some of these buildings there are pretty near gone, and some of them will last a long time yet.

Q. Thence the cost of those buildings does not, in a correct sense of the term, represent their present value?

A. The deterioration has not been considered; I have only considered them as structures of the day, as though they had been built or were to be built now.

Q. So in your estimate of value you have been going on what it would cost to build new buildinggs of those dimensions and out of these respective kinds of material, built new?

A. Yes, sir.

Q. You do not wish to be understood as saying, then, that a frame building standing twenty or thirty years is as good as a new building would be, constructed at this time, built out of this kind of material?

A. The old building is just as useful for its purposes until you have to give it up, the building of itself—the material is not so good—as a new building; that is a general remark; when a building is renewed you put in a different kind of building, and perhaps have some improvement, some improved facilities.

Q. And I notice that in your description of buildings that you describe several buildings as being an addition or a shed to some other building, do you mean by that that you were describing separately each addition or extension that had been made to that existing building?

A. Yes, sir; in those cases; in some cases they adjoin the other buildings that have been put up from time to time during the last twenty or thirty years.

Q. So that if you had a building that had three additions and a shed, all included in that one building, in your statement you would describe them as being composed of four separate structures?

A. Yes, sir.

Q. So that if a visitor would go to-day to the ground to count the number of buildings, he would not find the exact number of buildings set out in your estimate?

A. No, sir; not always, the additions being perhaps of different construction from the main building.

Q. These watch houses of which you made mention of a very great number are little frame structures to shelter a man who stands on guard or watch, are they not?

A. Yes, sir.

Q. And have you a knowledge of about how many of those you enumerated in your itemized statement of separate buildings upon this terminal property?

A. I think I can tell you—eighteen.

Q. Now, can you state in a moment how many of the itemized structures described by you are additions or sheds to other buildings, so as to constitute a part of another building?

A. Well, there are twenty-two that figure as additions, and there are five sheds; some of those additions are mere projections and some of them are bow-windows, simply a projection; as a matter of fact they might have been considered as a part of the main building, but as I have said that it is simply for convenience in making up these figures.

Q. Now coming next to the headquarters building, do you know what that building originally cost the railway company?

A. No, sir; my estimate of that building is not a very satisfactory one; I simply know or did know what the additional work on that building cost, the work done in 1886 and 1887, there was some work done later.

Q. Can you state what the additions cost that were put there of which you have any knowledge?

A. I think so; I will state that from my recollection, and look it up afterward from my papers; I have not got it in this book; my recollection is it was about $60,000.

Q. Let me refresh your mind; is it not true that the ground upon which that building stands, together with the original building, cost the railway company not over $50,000?

A. I have no knowledge of the original cost of the old building; my estimate of the cost of that building, including all the furniture in it, is $135,000.

Q. How did you come to pass an opinion upon the value of the furnitnre?

A. Well, I have included the furniture in all of my estimates of the buildings on the whole road.

Q. How did you get at the value of the furniture in this headquarters building?

A. Well, I had no list of the furniture in that building, but there is a valuable law library there that belongsto the Union Pacific; there is a large number of safes, and a great number of desks, especially in the auditing department, and my view of that was that all of that property could not be purchased at any time for less than $35,000; the law library I had some figures on, and the rest of it I had little or nothing on; that is a bare estimate and a mere matter of opinion.

Q. You have never been in the furniture business?

A. I have had to furnish a number of houses from time to time in my moves about the world.

Q. You did not fill up your houses with law libraries and desks, I suppose?

A. I hope not. Of course, in accepting a figure of this kind without something like reasonable data, I placed a figure on it which I thought would hold under any kind of inspection.

Q. It happens, as a matter of fact, that you do not know anything particularly about it?

A. Except the law library, and that I know nothing about, personally, except I know there is a large number of books there that are reported to have cost a certain sum.

Q. Now, as to the value of the terminal lands, who did you inquire of to find out the present value of those lands?

A. I did not make the inquiries personally; I did not think it was best to do so.

Q. Who was the informant?

A. I sent a man to inquire, a man by the name of Houck, to make inquiries of various real estate people.

Q. Who is the Mr. Houck you sent to make such inquiries?

A. He is a man formerly in my employ here, and he had at that time a great deal to do with this property in the way of making up estimates and planning the tracks, and all that kind of thing.

Q. In what capacity was he in your employ?

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A. He was in my employ as an assistant.

Q. Where does he live?

A. He lives in Omaha; I do not know his residence.

Q. Can you give us his first name?

A. I think it is A. F. Houck.

Q. Do you know what his present business is?

A. He is an assistant in the Union Pacific at present; he was not at the time these figures were made.

Q. What was his business at that time?

A. I think he was one of the unemployed at that time.

Q. Are you sure he has not joined Kelly's army and gone away?

A. I have not seen him these days, but I am quite sure he has not.

Q. You do not know, then, who he talked with?

A. No, sir; I told him to see various people who were reliable men and get the best information he could about it.

Q. You do not know what he said to any of these men nor what they said to him in reply?

A. I only know his report of what they said.

Q. You have, then, no personal knowledge about what particular lands he inquired about or what particular values were put upon any particular piece of property he inquired about other than what he may have reported to you?

A. Other than what he reported; in some cases the figures brought in by him were compared with some recent transfers of which we got some knowledge.

Q. When was it that he made these inquiries and this report to you?

A. September and October last.

Q. And you are using your information you acquired from Mr. Houck in the manner you describe in a measure as a basis on which you have given your opinion of the value of this land?

A. To a very great extent, so far as his information goes, yes, sir; but I had previously, while I was with the company, investigated as to values, had investigations as to values made for other purposes, and some of that information was available.

Q. Were you here in September and October, when Mr. Houck was making those supposed inquiries?

A. Yes, sir; I was here at the time.

Q. Do you know whether Mr. Houck is still here or not?

A. I think he is.

Q. Has Mr. Houck ever been engaged in the real estate business in this town?

A. I do not think so.

Q. And you never have been engaged in the real estate business in this town?

A. No, sir.

Q. Under the head of bridging, you included all or a part of the cost of the construction of the Eleventh street viaduct?

A. I included such proportion as belongs to the

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Union Pacific; I included the Union Pacific proportion; the Union Pacific proportion of the Eleventh street viaduct is $39,150.

Q. What do you mean by the Union Pacific proportion of the viaduct?

A. The proportion of the viaduct paid by the Union Pacific Company.

Q. Well, you do not mean by that the Union Pacific Company owns any part of that viaduct, do you?

A. They own it to the extent that they have expended that amount of money on it; I do not suppose it is technically property of the Union Pacific.

Q. It is simply an elevated street over the track of the Union Pacific, is it not?

A. That is an elevated street, and my understanding is the Union Pacific has to build and keep that structure in repair.

Q. Likewise private property owners in the city who were abutting upon that property were likewise taxed under special assessments to help pay the cost of that structure, were they not?

A. I suppose they were, or their proportion outside of the railway properties.

Q. They were supposed to be taxed according to the benefits received by them to their property, but the viaduct itself belongs to the municipality, does it not, as much as any other street?

A. I suppose it does.

Q. You also included, did you not, in your estimate, something for the construction of the Thirteenth street viaduct?

A. The Thirteenth street bridge is a bridge of the Union Pacific property; it is a part of the grade of that road, under its track. The Fourteenth street passes under the track also. The Sixteenth street viaduct, however, passes over the Union Pacific track, and the Union Pacific paid as its proportion of the viaduct $17,661.00.

Q. That Sixteenth street viaduct is an elevated street, just as the Eleventh street viaduct, is it not?

A. Yes, sir.

Q. I suppose you are informed as to this fact, that the Sixteenth street viaduct has been condemned as unsafe for public travel, and teams are forbidden to go over it, and have been for a long time?

A. I am not aware of that, and I did not know it was so when I was here in October; I understood the bridge was out of repair at that time.

Q. Did you include in your estimate anything on account of the Tenth street viaduct?

A. Yes, sir; I included that in the items of the Omaha Union Depot, of which the Union Pacific paid its proportion of one-half.

Q. Then, I will leave that out for the time being, until I come to the depot matter, and will speak of that again.

Q. Do you know whether or not there are buildings

upon these terminal grounds that do not belong to the Union Pacific Company?

A. Well, the buildings on the Sheely track do not belong to the company, and there were a number of squatters about on the property in several places; I no not know whether they have left or not; and I suppose there are some warehouses which may be on the property or which may encroach on the property, on the right-of-way; lumber yards.

Q. Is the company receiving rental for such of its ground as are used by lumber companies?

A. I suppose it does receive a rental in some form or other; they make leases for all such cases.

Q. You do not know the amount of the revenue derived from leases to lumber companies?

A. No, sir.

Q. There are several lumber companies occupying quite extensive portions of these grounds, are there not?

A. Yes, sir; I believe so.

Q. Well, how about the elevator buildings that are near the supposed depot?

A. I think that is on the Union Pacific property.

Q. The Union Pacific does not own those elevators, however, does it?

A. I understand it has an interest in that—an interest of $81,000.

Q. Do you mean that interest is owned by the railway

company or owned by some stockholders of the railway company?

A. No, sir; my understanding is it is an investment of the company itself, and that the sum of $81,000 in money was used therefor.

Q. And the remaining interest in those companies is owned by private individuals?

A. By private individuals; yes, sir.

Q. Do you know how many there are of those elevators?

A. I know of but one elevator on this side of the river.

Q. Are there not two near where the trains stop at the station?

A. I do not know but there are two, I believe there are two standing close together.

Q. Take the lands occupied by the smelting company, those lands were formerly given to The Union Pacific Railway Company by the City of Omaha, were they not?

A. I have no knowledge of that circumstance.

Q. They were claimed by the Union Pacific Company, were they not, at one time as part of their terminal grounds?

A. That I have no knowledge of.

Q. Do you understand the Union Pacific Company now claims any interest in those grounds?

A. I understand that it must claim some interest in those grounds.

Q. Why do you say you understand it must claim some interest in those grounds?

A. Because they are indicated on this map and are generally understood to be a part of their property.

Q. Does the company claim any interest in that smelting plant?

A. I do not think so; I do not know; if they do I have no knowledge of it.

Q. Can you tell about how much of that ground is covered by the smelting plant?

A. No, sir.

Q. Several acres, is there not?

A. I should think so; I think between five and six acres, possibly more.

Q. That you understand to be a very extensive smelting plant?

A. That is a very considerable plant, one of the important ones of the country.

Q. And all that ground occupied by the smelting plant, covering several acres, you have included in your statement of the number of acres of ground constituting a part of the terminals of the Union Pacific Company?

A. Probably.

Q. Why did you say probably?

A. Well, it is possible some of their buildings would be outside of the Union Pacific property; their property is not indicated on any map I know of.

Q. Then so far as you understand it, you have included all that ground in your statement of the acreage of the Union Pacific Company?

A. Yes, sir; my underetanding is that all or most of the property occupied by the smelting company belongs to the Union Pacific Company.

Q. Well, then, do you understand the Union Pacific Company receives a rental for this ground?

A. I presume they do, I do not know.

Q. Those grounds to the smelting company would be very valuable, would they not?

A. I should think so; I don't know what the arrangement is with the smelting company, I never had any knowledge of it.

Q. Now, are there not also a number of warehouses, large buildings, and varying from three to five and six stories high, owned by private individuals, that are also located upon grounds that are included in your estimate of the acreage of the Union Pacific terminals?

A. Doubtless, there are warehouses, in fact I know there are some warehouses which are on this property which belong to private parties.

Q. The Union Pacific Company receives rental, does it not, for the grounds so occupied by these warehouse buildings?

A. It should receive rental or some equivalent therefor.

Q. Now, the terminal grounds, from the supposed depot of the Union Pacific north to the north end of the terminal grounds, lies between the city proper and the Missouri River?

A. Yes, sir.

Q. And they are principally on lands that are substantially on a level with the Missouri River?

A. They are on a level something near high water mark of the Missouri River; extreme high water mark, I think.

Q. The upper portion of these lands frequently overflows in times of high water, does it not?

A. The far northern portions of these lands overflow in portions during high waters; yes, sir.

Q. The City of Omaha, or the principal business portion of the city lies to the west of these terminal grounds, and on a higher elevation, does it not?

A. Yes, sir.

Q. And that elevation is about how much above the high water mark of the river?

A. Oh, I don't know; I suppose at the foot of Farnam street, say Tenth and Farnam, it is 30 or 40 feet above high water mark; I haven't the grades of the streets.

Q. Then the ground upon which the city proper is built, sloping westward, still rises to a higher elevation?

A. Yes, sir.

Q. The city proper is then built on what might be termed a plateau, and the terminal grounds are on the river bottom?

A. The part of the terminal grounds you mention, between the union depot grounds and what is known as the initial point north, excluding the freight depot and tracks

pertaining thereto, may properly be considered as on the river bottom, somewhere near the extreme high water mark.

Q. A great part of those grounds was what is commonly called or known as sand?

A. Silt and sand.

Q. And for years the river in the course of the changing seasons has been cutting away the ground, has it not?

A. The river did cut away some of the ground some years ago, but recently I think it has not encroached to any appreciable extent on any of that property.

Q. Was not the further encroachment prevented by the building of rip-rap and by the improvements made by the general Government, under the name of the Missouri River Commission?

A. I do not know how much work the government did there, but the railroad company did a large amount of work to prevent that encroachment.

Q. Has not the smelting company also performed a large amount of work?

A. The work of the smelting company has done a great deal in that direction, yes, sir.

Q. Without such protection by the Missouri River Commission, by the railway company and by the smelting company the Union Pacific company would not have had any assurance that its terminal grounds would have remained in existence very long, would it?

A. It might not have had any assurance as respecting some particular portion of its grounds, particularly at the

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point where the main encroachment took place, outside of that there does not seem to have been any very appreciable encroachment.

Q. Do you know the terminal grounds of the Missouri Pacific in the City of Omaha?

A. Yes, sir; I have some general knowledge of them, but I have not been over those grounds, I have not visited those grounds for three years.

Q. You do know do you not that the Missouri Pacific, the Fremont & Elkhorn and the St. Paul, Minneapolis & Omaha have their terminal grounds at what is called the north part of the city?

A. Yes, sir.

Q. And their depot is known as the Webster Street depot?

A. Yes, sir.

Q. Is it not a fact that those terminal grounds of the depot last mentioned are nearer to the post office in the City of Omaha than the depot grounds of the Union Pacific?

A. I think there is no doubt that the passenger depot is nearer the post office than the Union Pacific grounds, that is nearer the post office than the proposed depot of the Union Pacific.

Q. Now, on the Union Pacific depot grounds, you have the Chicago, Burlington & Quincy and the Union Pacific, with leasehold privileges to the Rock Island and Milwaukee, and have the three other roads mentioned in

the north part of the city with a depot at a point nearer the post office?

A. Passenger depot, yes, sir.

Q. Now, do you not also know that there is another company in this city known as the East Omaha Terminal Company that has a large extent of lands which they desire to have used for terminal facilities by railway companies, and for that purpose have built another bridge over the Missouri River to bring all the railways into the the north part of the city that desire to come here?

A. Yes, sir.

Q. That ground is still accessible to such companies as desire to use it, is it not?

A. I suppose it is.

Q. Now, when you put your estimates of ten million dollars upon the terminal property of the Union Pacific in Omaha, you did not mean in that to include the value of the smelting plant?

A. Nor of the warehouses belonging to private parties.

Q. And you did not mean to include, or did you include in that the Union Depot property?

A. No, sir; I did not—I did not include the property belonging to the Omaha Union Depot Company, but I did include in it the real estate known as the depot grounds—the lots there which never have been transferred to the Union Depot Company.

Q. You do not mean to include in it the terminal

grounds of the East Omaha Company, nor the terminal grounds of the Missouri Pacific, the Fremont & Elkhorn, and Chicago, St. Paul, Minneapolis & Omaha?

A. No, sir; I intended to include the Union Pacific property.

Q. And I do not suppose you meant to include the property of the municipality of the City of Omaha, nor the property belonging to the inhabitants thereof?

A. No, sir.

Q. You know, do you not, that aside from the property of the East Omaha Terminal Company and of the Missouri Pacific Company, and of other railway companies, that Omaha proper includes an area of about thirty sqnare miles?

A. I did not know that; I do not know how many square miles there are here.

Q. And you know that we claim about 150,000 of population?

A. Yes, sir.

Q. And about eighty miles of street railway, and about fifty miles of paved streets, with water plant, sewerage, et cetera?

A. Yes, sir.

Q. Well, now, when you estimated the value of the terminal grounds of the Union Pacific alone to be worth ten millions of dollars, did you know the entire property of the city of Omaha, all told, was only valued at $20,064,143.39?

A. No; I do not know what the assessed valuation of the city is.

Q. You do not think, for a moment, that the terminals of the Union Pacific are worth one-half of all the property there is in the municipality of the City of Omaha, do you?

A. No; what I think is this, however: that a railway depends on its terminals; the terminals are, so to speak, the reservoirs from which the property draws its revenue, and in fixing any valuation upon a terminal property its position as a reservoir of business must be considered; its peculiar condition with respect to a city or to other railways, and in mentioning the sum of ten million dollars as my idea of the value of the terminal property here I included whatever there was on that property, whatever it consists of, excluding property of private parties or other companies not property of the Union Pacific.

Q. If you did not have the City of Omaha here, or in other words, if there was no city here you would not consider the terminal properties of the Union Pacific worth very much money, would you?.

A. No, sir; in fixing any valuation upon the land belonging to the terminal one must encounter a great deal of difficulty, whether you should consider it merely as real estate, its value from a mere real estate point of view or its value as a railroad property and as a reservoir of railroad property, a reservoir for the business of railroad property, and the possibilities there might be of acquiring such property if it were necessary to reproduce the railroad.

Q. Well, the Missouri Pacific, with its terminals, and the Fremont & Elkhorn, with its terminals, and the Chicago, St. Paul, Minneapolis & Omaha, with its terminals, can receive all the business that the people in Omaha want to do with those respective roads, can they not, with their terminals located as they are?

A. I think there is no doubt about that.

Q. Drawing your attention to another thing with reference to facilities, to warehouses and all that, has not the Missouri Pacific a line that runs around the city, commencing in the northern part of the city and running around north and west, furnishing abundant facilities for warehouses and such other structures as people might desire to construct on that line?

A. The construction of warehouses on that line would bring them rather out of the way for any business of the city of the present.

Q. Is it not true that since the terminal grounds were located that the City of Omaha has constantly been growing to the north and west and away from the terminal grounds of the Union Pacific and nearer to the terminal grounds of the other railroads named, and to the line of the Missouri Pacific commonly known as the Belt Line?

A. Well, since the Union Pacific was built the city has been growing in all directions; I am not prepared to say it has grown to the north any more than to the south.

Q. It has not grown to the east; it started at the east

and has been growing to the north and west ever since, has it not?

A. The terminal grounds of the Union Pacific occupy the east side of the city, and it cannot grow any further in that direction unless it grows to East Omaha.

Q. Well, as a matter of fact, then, it has been growing to the north and west, has it not?

A. And south; yes, sir; that is my understanding; I have been informed, not with reference to this testimony, but casually, that the population south of the Union Pacific main line was fully one-third of the population of the city; I never verified that statement.

Q. You know enough about it to say that a large part of that population referred to being south of the Union Pacific track is made up of very small houses, occupied by laboring men, and a large tract of it is commonly spoken of as "Bohemian town," where children are abundant but wealth is not abundant?

A. I never heard it called "Bohemian town;" the people over there are strong enough to get all the bridges and viaducts they want over the Union Pacific tracks.

Q. That was not to enable them to get to the terminal grounds of your company, but to get into Omaha proper, for which your terminal grounds were always considered a public obstruction?

A. That was to enable the south and north sides of the town to communicate with each other without going

over those tracks, and to facilitate the movement of the city generally.

Q. Coming now to the Union Depot; there is no Union Depot here worthy of mention, is there, Mr. Bogue, in your opinion as an engineer?

A. No, sir; there is properly no Union Depot here.

Q. The fact is the trains land in the open air and the passengers alight in the open space and go to a carriage, if they can find one, and get out of the way?

A. The facilities are wholly temporary, I presume.

Q. Now, in your statement that the Union Pacific had expended or has invested $257,522 in the depot enterprise, what did they invest that money in?

A. I have given the items already to you.

Q. You gave the items making up the Union Depot Company, of which I am going to speak shortly, and you itemized that, but what I want to get at is the expenditure of the Union Depot Company, which you have named to be $257,522?

A. The $257,522 is the proportion of actual expenditure made in connection with the Omaha Union Depot, which was borne by The Union Pacific Railway Company.

Q. And then you mean that there has already been expended by the Union Depot Company $515,000 and over?

A. Yes, sir.

Q. And that includes the $257,522 expended by the Union Pacific?

A. Yes, sir.

Q. Now, in your statement that there had been expended on the main building $116,000 odd dollars, what building did you refer to?

A. I referred to the large brick structure which is just this side of the present temporary building and to the east of the Tenth street viaduct.

Q. You mean, then, a brick structure one-story high that has been abandoned?

A. Yes; it is abandoned; it is twenty-six feet in height.

Q. That was only practically the basement story of a depot building which had been drawn on paper?

A. Yes; that is only the track level floor of the depot building; that floor was to be occupied by various waiting rooms, baggage rooms, etc.

Q. The work on that building has been abandoned now for how long a period of time?

A. Since, I think, about the first of December, 1890.

Q. And never has been used for any purpose whatsoever?

A. No, sir.

Q. And in the condition it is in cannot be used for any purpose whatsoever?

A. Not at present.

Q. It has no roof over it, or anything of that sort, except some boards that have been laid on the top of the brick walls?

A. That item simply represents the actual expendi-

ture to bring that property to its presnt condition, it is not available.

Q. Then, as it is there, you do not mean to say, if it should remain the way it is, it would be worth the $116,000; it is worth nothing as it stands, is it?

A. It has no practical value except as old material, unless something more is done to it, unless the roof is put over it or unless the building is continued and finished.

Q. When you mentioned mail and express building, $3,000 and over, what did you refer to?

A. That, as I remember it, is property which originally belonged to the B. & M. Company, and was their passenger station, and its surroundings, platforms, etc., which was appraised at that value; that is my understanding of that item, I never had anything to do with that item.

Q. Is there any such building there at all?

A. Yes, sir.

Q. Where is it?

A. It is at the west end of that long temporary depot.

Q. Is there any building there except a little bit of a frame building painted red, about ten or twelve feet high?

A. That is the building I refer to, I don't remember its height, but this is an approximate of its value, made by somebody.

Q. You do not know who made it, do you?

A. I do not know anything about that, except I find it here and I believe it to be correct; the Union Pacific has had to pay in one-half of the sum, I believe here.

Q. You say you find it here, what do you mean by that?

A. On this statement prepared by the Union Depot Company for my use.

Q. You do not mean to say you have any personal knowledge of the value of that building.

A. No, sir.

Q. For all you personally know, that building may not be worth $500.

A. From my personal knowledge I think it is worth a good deal more, as I recollect it, but that item of mail and express may include other matters; I would have to investigate that very closely to get at all of the matters covered by this item.

Q. Another item you speak of, train sheds, $3,279, where are the train sheds?

A. The train sheds were never built, the plans were made and expenditure was made on that account; several different plans were made before one was found which was satisfactory, and I suppose this item represents the cost of these plans, and perhaps a settlement with the contractor; my understanding is a contract was made for the construction of those train sheds, and it is very probable this item includes a settlement with the contractor.

Q. The long and short of it is then, you mean the Union Pacific Company has paid out that amount of money for which it never received any consideration, or practically wasted?

A. It was not wasted because they have the plans and whatever was done by the contractor on the construction.

Q. If they do not put up the building the plans would not be worth anything, would they?

A. No; they represent an investment of the Union Pacific Company.

Q. It means simply, money paid out by the Union Pacific Company, but it don't show they received any consideration for it, or how it did represent it?

A. I think it is of value.

Q. What do you mean when you say you think it is of value?

A. I mean to say that the value for that structure—that the plans of that structure are of some value for the future; yes, sir.

Q. But suppose they do not build it?

A. O, well, then it is of no use at all. I do not think, however, that after that amount of money has been expended they are going to give up the idea.

Q. Well, you are not running that road now, are you?

A. No; that is a mere matter of opinion.

Q. How long ago since that money was expended, do you know?

A. It was expended during the year 1889, perhaps some of the bills were not paid until 1890.

Q. That would be about five years ago since that was done?

A. Yes; four years ago.

Q. The next item was temporary work, $20,789, what was that supposed to represent?

A. I think that represented the temporary building there and some of those tracks.

Q. What do you speak of as the temporary building?

A. The building now used as a depot.

Q. Don't you know there is nothing there but a little frame structure that is not worth anything compared with that item?

A. Yes, sir; but the rails and track materials there are worth a great deal.

Q. You had to have the rails and track whether they had any depot or not, didn't they; and didn't they have the rails and track there before the Union Depot Company was ever spoken of?

A. Oh, you must have rails and tracks for your facilities; but what I say, is this represents such temporary work as they have done there to temporarily accommodate the business—they have made that investment.

Q. Were not the tracks there before the Union Depot Company was formed?

A. Yes; there were tracks there belonging to the B. & M. Railway, and I believe one track belongs to the Union Pacific; that ground was not all occupied by tracks, however, at that time; some change was made, however, to get those tracks in.

Q. Have not you included those tracks in your terminal mileage of the Union Pacific Company?

A. No, sir.

Q. How much of track there have you excluded from your mileage of the Union Pacific, that you appropriated to the Union Depot Company?

A. The mileage of the Union Pacific has nothing to do with the mileage of the Union Depot Company.

Q. That may be, but I am asking how much is the mileage there in your estimate of that $20,000, belonging to the Union Depot Company?

A. I do not know.

Q. What I want to get at is simply whether you had any knowledge of that point at all, or not, or what that track was?

A. Those tracks were partially built under my direction, I had some knowledge of them at the time.

Q. I see all the time in answering these questions you are speaking from a typewritten memorandum, what is that memorandum?

A. It is a memorandum furnished me by Mr. Kimball's office, the president of the Union Depot Company; it purports to be the report of the treasurer of that company of the expenditures prior to October 1, 1893.

Q. That includes, then, expenditures since you had any official connection—?

A. O, some of the bills were paid, in fact, I know some of the bills were paid during 1890.

Q. That is not my question, whether you may have

known of some of those bills, but the converse of that, there is many items there you know nothing about?

A. Certainly, there may have been expenditures I know nothing about. In fact, these items as items I know nothing at all about their correctness, except the Tenth street viaduct and the Seventh street bridge.

Q. In short, when you are stating the amount of these items, you are simply stating that from a memorandum handed you by Mr. Kimball, an officer of the Union Depot Company?

A. Yes, sir.

Q. He is the man then, that would know that?

A. Yes, sir; or the treasurer, perhaps.

Q. Your knowledge as to all the other items of expenditure in connection with the Union Depot Company would be subjected to the same criticism, would it not?

A. No, sir; the Tenth street viaduct, the contract of that was made while I was connected with the company, and I have pretty accurate knowledge of that, and I know that item is substantially correct.

Q. The Tenth street viaduct?

A. Yes, sir. I know the viaduct cost about $200,000, because that is the amount of my estimate for its cost.

Q. That is the only item?

A. The Seventh street bridge also.

Q. Those are the only two items you pretend to have personal knowledge of?

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A. I have personal knowledge of the other items, but not as to the correctness of the items.

Q. The Tenth street viaduct you have as $197,162?

A. Yes, sir.

Q. Did that represent what the cost of the viaduct was, or a proportionate part of the cost of the viaduct?

A. That represents the Union Depot proportion of the cost of the viaduct.

Q. You do not mean to say the Union Depot Company owns any part of that viaduct?

A. That viaduct is in exactly the same condition as the Eleventh street bridge, it is a public street.

Q. And built under the same conditions or circumstances as the other viaducts heretofore described?

A. Except there were conditions in the contract for that viaduct providing for bonds by the city in connection with the erection of the union depot.

Q. That is in connection with the union depot?

A. They were to be issued in consideration of the completion of this viaduct and the erection of the depot.

Q. If such bonds were to be issued, the Union Depot Company was to get the benefit of the bonds, was it not?

A. Yes, sir.

Q. You do not conceive the Union Depot Company were to get the bonds, or the benefit thereof, and then also to claim the viaduct, or what was expended in that as part of the property of the Union Depot Company, do you?

A. It has not yet received those bonds, and I present the statement as it stands.

Q. Still, you do not mean to say or wish to be understood that the Union Depot Company owns that viaduct?

A. I don't know as it does; as I understand the situation, the whole matter is subject to suit.

Q. The suit has long been decided in favor of the city, long ago; the city owns the viaduct and the railway company don't get the bonds, that is the adjudication long since, is it not?

A. It may be; I haven't kept any track of that.

Q. In estimating the value of the union depot property, why should you include in the value of that property the amount of money it expended for building a viaduct which it does not own and has no financial interest in?

A. You speak of the Union Depot Company?

Q. Yes, sir; any more than an abutting property owner who paid any assesments should say he owned any part of that viaduct?

A. I consider that matter bears the same relation to the depot company or railroad company that damages in a case of real estate or right-of-way would bear to the cost of the right-of-way; it is an expense which the company must bear, and whether the raised street is the property of the company technically, afterward, or not—I suppose it is not —but the company has that expense to meet, and it is considered, therefore, if I undertake to make an estimate to reproduce the property, to reproduce it as I find it.

Q. That Seventh street bridge is a bridge between the supposed location of the depot, and the bridge over the Missouri River, is it not, at a point where the main line passes over Seventh street?

A. Seventh street passes under the Union Depot grounds, and a portion of the Union Pacific property outside of the depot grounds, and the Seventh street bridge carries the tracks over the street.

Q. Well, the main line of the Union Pacific passes over this bridge?

A. Yes, sir; over a part of it.

Q. And at the same point where the main line of the Union Pacific always passed over in traveling to and from the bridge over the river?

A. Well, I cannot answer that question just now; my impression is there has been some shifting of tracks there, a few feet more or less.

Q. I mean there is no substantial change of location?

A. Yes, sir.

By Mr. Woolworth:

Q. What he wants to get at is the track runs from the Missouri River bridge over the Seventh street bridge which is above Seventh street?

A. Yes, sir.

By Mr. Webster:

Q. It always did, didn't it?

A. Yes, sir.

By Mr. Woolworth: No it didn't.

A. My impression is the location has been changed, there has been a shifting there, but how many feet I do not know; that was done before I was with the company, the shifting of these tracks.

Q. Well, what this $17,000 was expended for was to construct a new bridge over Seventh street, was it not?

A. Yes, sir.

Q. And before this was expended there was a bridge over that street, but of a more temporary structure, the original bridge being of wood and resting on posts in the center of the street and large timbers, and the present bridge being of stone and iron?

A. Yes, sir.

Q. Now, there is another item there I would like to ask you about to see if you know anything about it, if not, I would like to ask Mr. Kimball about it—the item of legal expense, $3,647, in what litigation was that money expended?

A. I do not know.

Q. You do not know what lawyer got it?

A. No, sir.

Q. All the other items that appear in this account or statement, touching this Union Depot expenditure are items of which you have no knowledge, except as you have heretofore disclosed, except as you find them on the paper furnished by Mr. Kimball?

A. Yes, sir; precisely.

Q. You know, do you not, Mr. Bogue, that the Chi-

cago & Rock Island road also occupies or uses a part of these grounds spoken of as the Union Depot grounds?

A. I know that they have a lease of the Union Pacific along the main line to South Omaha of the bridge and from Council Bluffs.

Q. And under that lease they run their trains over that part of the line of the Union Pacific and also through those grounds spoken of as the Union Depot grounds?

A. Yes, I know they do.

Q. Do you know how much annual rental the Rock Island pays to the Union Pacific for the use of those grounds?

A. I do not know.

Mr. Woolworth states that the Rock Island pays to the Union Pacific Company $45,000 a year for the use of the line from Council Bluffs to South Omaha, and the Milwaukee pays the same sum for the use of the line from Council Bluffs into Omaha, with the use of the terminals, both companies having the use of the terminals.

Adjourned until 10 o'clock to-morrow morning.

OMAHA, Thursday, April 26, 1894, 10 A. M.

Pursuant to adjournment, the further taking of testimony is resumed as follows, viz.:

CONTINUATION OF CROSS-EXAMINATION OF THE WITNESS, MR. BOGUE.

By Mr. Webster:

Q. Now, Mr. Bogue, we will take up some of your estimates of the value of the main line, the first, touching

the first division you gave me was from Gilmore to Valley?

A. Yes, sir.

Q. That estimate, as I understand, excludes Gilmore but includes Valley?

A. Yes, sir.

Q. Now, the first station west of Gilmore is Papillion, is it not?

A. Yes, sir; I believe so.

Q. Now, can you tell the amount of siding there is at Papillion?

A. Not at this moment; the sidings between Papillion and Valley I have under one head as sidings.

Q. Can you state the amount of sidings at Papillion?

A. Not at this moment.

Q. The next station west of Papillion is Millard, is it not?

A. Yes, sir. I can tell the amount of sidings between Gilmore and Valley.

Q. Can you tell the amount of sidings that are at Millard?

A. No, sir.

Q. The next station is Elkhorn, is it not?

A. Yes, sir.

Q. Can you tell the amount of sidings at Elkhorn?

A. I do not find those items.

Q. Then I suppose you do not know the amount of sidings at Waterloo, the next station west?

A. No, sir.

Q. From what was it that you testified that the sidings from Gilmore to Valley was nine miles?

A. That testimony is from the official records of the company; the engineer's office keeps plans of the several yards and any additions that are made to the track are indicated on the plans, and a constant record is kept of any changes in the sidings and the length of sidings at each station is constantly kept up.

Q. Who is the custodian of that record?

A. It may be found in the office of the chief engineer.

Q. You have not got possession of that record here?

A. No, sir; I have not possession of that record.

Q. You did not have that record here when you testified in chief, did you?

A. I had my figures taken from that record.

Q. You testified from a pencil or typewritten memoranda, did you not?

A. No, sir; I obtained the amount of sidings between Gilmore and Valley by going to the original records and ascertaining how much there was at each station, and added up the total and that I incorporated in the estimate.

Q. You testified, however, did you not, from a memoranda which you hold in your hands and in front of you when you testified?

A. Yes, sir.

Q. And that was a memoranda prepared by yourself, or by some other person for you?

A. Those were prepared very largely by myself; I had some assistance in preparing this memoranda, clerical assistance, but I am personally familiar and personally did a great deal of the work, I have a personal knowledge of its essential correctness.

Q. Well, these various railway stations I have named were constructed before you became connected with the Union Pacific road, were they not?

A. Yes, sir; but during the years I was connected with the road I had recourse to the records of sidings continually.

Q. And these sidings were principally constructed before you came to the Union Pacific road or became connected with it?

A. Great many of them were.

Q. And still it so happens that you cannot give their mileage of sidings at the stations as you have heretofore answered on your cross-examination. Will you allow me to inspect the document from which you made your answers in testifying to those subdivisions?

A. Yes, sir. (Witness hands the paper to Mr. Webster.)

Q. I see by the paper that you hand me that you had set down or had caused to be set down in typewritten form each of the items, and almost in the size, form and order in which you answered, did you thence, not in fact or in substance, read from this document in giving your answers in chief as to all the subdivisions between Gilmore and Valley?

A. Yes, sir; I think so.

Q. When did you prepare this document from which you read your answers?

A. In September and October, the document was completed about the middle of October.

Q. How long were you in Omaha, if at all, in having this document prepared?

A. I was here and my time devoted to that work here was about thirty-one days, and I was in Omaha thirty-one days, excepting one day that I went to Lincoln.

Q. At that time were you out over the line of the road to inspect it?

A. No, sir; I have been over the line of road many times on inspection trips before.

Q. I did not doubt that other part at all, but still you were not out to inspect it in September and October, 1893, when you were causing this paper to be prepared?

A. That is right.

Q. And your former inspections were from 1886 to 1890, while you were chief engineer?

A. Yes, sir; I have been over the road many times, not on inspection trips, but I have observed it.

Q. Not for the purpose of measuring sidings or anything of that kind?

A. Not for any particular purpose, but more especially to note what changes had been made in the last year or two.

Q. Was this typewritten memoranda run off in the present form in Omaha or in Chicago?

A. In Omaha, it was checked by myself.

Q. The official records of the Union Pacific from which you obtained this data at the office of the engineer, would have been accessible to you yesterday and to-day, if you had called for it?

A. Yes, sir.

Q. And those records are at this time in the City of Omaha?

A. Yes, sir.

The State Board of Transportation moves the Court that all the testimony given by this witness touching the mileage of the road, mileage and sidings, and all matters connected therewith, be stricken out for the reason that it appears the witness has testified from a memoranda purporting to be taken from the official records in the office of the chief engineer, but which original records are within the City of Omaha, and accessible to the witness if he had desired to use the same, and within the control and jurisdiction of this Court, and which testimony should only have been given from the official records, so that defendant's counsel would have had the benefit of an inspection of the records and the benefit of a cross-examination with reference to the official records.

Q. Now. Mr. Bogue, skipping for a moment to the west end of the line, from Julesburg to the Wyoming line, I will ask you to state, if you can, whether or no you can

now state the amount of sidings at the respective stations between Julesburg and the Wyoming line, other than in the form of the sum total of 15.81 miles as stated by you in chief?

A. Yes, sir.

Q. State what you know on that point?

A. At Ralton, 3,340 lineal feet; Chappell, 3,152 lineal feet; Perdu, 3,448 lineal feet; Lodge Pole, 4,303 lineal feet; Sunol, 3,335 lineal feet; Colton, 2,857 lineal feet; Sidney, 23,712 lineal feet; Margate, 3,376 lineal feet; Bronson, 2,637 lineal feet; Herndon, 3,452 lineal feet; Potter, 4,088 lineal feet; Jacinto, 3,457 lineal feet; Dix, 3,262 lineal feet; Ovasco, 3,462 lineal feet; Kimball, 3,320 lineal feet; Adams, 2,512 lineal feet; Bushnell, 2,863 lineal feet; Smeed, 3,417 lineal feet; Weir, 3,483 lineal feet; total, 83,476 lineal feet, or 15.81 miles.

Q. From what paper was it you read your last answer?

A. This is a paper copied from the official records mentioned in the previous division, of sidings, kept in the office of the engineer.

Q. Who copied that?

A. This was copied by Mr. Cone in my presence.

Q. Who was Mr. Cone?

A. Mr. Cone was an assistant of mine on the Union Pacific, and I employed him to help me in getting up these figures.

Q. When you answered that that copy was made in

your presence do you mean that you stood by him or over him while he made that copy?

A. I mean that during the time he was helping me—I will make this general answer—that I was present with him most of the time, and that any work done by him was under my instructions continually and in my presence, except when I was obliged to go out on some business connected with this investigation.

Q. So when you speak of that part which was done in your presence, you mean it was done in the same room?

A. Done at the same table.

Q. While he was copying these entries you were engaged at some other distinct work, were you not.

A. Sometimes at some other work, but most frequently with the work which he had in hand.

Q. Do you mean by that it took your personal presence to see whether he copied these items?

A. Sometimes in doing work of this kind, we would check off or read off to one another.

Q. I am asking you what was done in this particular case, not what was sometimes done?

A. I do not always recollect what was done in a particular case.

Q. Without the presence of this memoranda made by Mr. Cone, you would not have been able to answer my last question with reference to these sidings, would you?

A. No, sir.

Q. I find that you set down the right-of-way from Julesburg to Wyoming to be $48,221?

A. Yes, sir. How much is it per mile?

Q. That is $480. I want to ask you how you determined the cost of the right-of-way per mile?

A. The cost of right-of-way per mile between Julesburg and Wyoming is an attempt to estimate its value, not on a basis of any particular figures respecting the value of land in that section of the country, although I did use some figures, but more especially by comparing that sort of country with other places, with other localities where I had built railway, and where I had ascertained by actual experience what the right-of-way had cost, it is a matter of comparison and a matter of opinion, simply.

Q. How wide is the right-of-way over that part of the line?

A. Well, it is from 200 to 400 feet; I called it 300 feet, average; my experience has been that a right-of-way 100 feet wide, through a country of that sort, would cost all the way from $350 to $500 a mile.

Q. Now, is it not a fact that the right-of-way of the Union Pacific is not anywhere beyond 200 feet, except at stations?

A. Well, I know that the company claims 400 feet through certain sections and through the others 200 feet, and my estimate of 300 feet is therefore based on—but whether it is 200 feet or 300 feet, I would not make any difference in the cost of getting right-of-way through that

part of the country on account of that difference in width, I think it would amount to about the same thing.

Q. You do know the fact that the lands in that country are practically of but very little value for farming or marketable purposes?

A. I believe that to be true, but my experience has been in all such parts of the country somebody has turned out and claims title and you have to settle with him.

Q. All these lands were part of the public domain and given to the railway company by the land grant, were they not?

A. I presume they were.

Q. So there could not have been any outside claimants in such a case?

A. That is a matter which I did not take into consideration, my object being to try and place some value, or to arrive at the probable cost of reproducing a road like the Union Pacific, or the Union Pacific at the present time.

Q. Now, did you take into account the fact that every alternate section of lands of that land grant was granted by the Government to the Union Pacific Railway?

A. No, sir.

Q. So that, if you are going to reproduce the Union Pacific road, would it not, through that country be reproduced by lands belonging to the company, or the lands which the Government had donated to this company?

A. Possibly some of them are unsold; my understanding is they are very generally sold.

Q. You are not advised, are you, that Mr. Mink has testified in this case that there are something like 3,000,000 of acres that are unsold?

Objected to by Mr. Woolworth because it does not appear that Mr. Mink testified, nor did he testify that any of the unsold lands were lands through which the road runs nor anywhere near the line of road.

A. I am not advised of Mr. Mink's testimony.

Q. Land out in that sub-division, from Julesburg to Wyoming, is only valued from about $2 to $5 per acre, according to its location, is not that so?

A. O, I think some of it runs up higher, $15.00—but whatever may be that value I do not wish to be understood that I place my view of the probable cost of right-of-way, if it was to be purchased now, would be very much dependent thereon—I think it would cost so much a mile.

Q. You simply guess it would cost so much, but don't mean to be understood that you have taken the market value of the land into account at all, in arriving at that estimate?

A. It is not a guess; it is an estimate based upon my knowledge of purchasing right-of-way in similar localities.

Q. Did you or did you not take into account in this case the market value of these lands per acre, the title of which should be acquired for right-of-way.

A. Well, I considered their value somewhat.

Q. But if you based it on the market value of these

lands, your estimate would be entirely too high, would it not?

A. I think it would be somewhat too high.

Q. I see in your memorandum you have also set down for terminals $2,000, what do you mean by terminals on the line from Julesburg to the Wyoming line?

A. Those are understood to be the lands at Sidney, of which there is quite a large tract.

Q. What lands has the company at Sidney?

A. My recollecti is that there is 160 acres there, but I have not— I g you that from recollection only, but the company claims 160 acres there.

Q. And that was land they came into through the land grant or by purchase?

A. I don't know.

Q. And you don't know the market value of that land?

A. No, sir. I have not; that land was worth at least $2,000.

Q. On that division, you have an item for clearing and grubbing, of $1,005, what would there be up in that division to grub or to clear away?

A. Well, in almost any country where you build a railway my experience is you have to pay something for work of that kind.

Q. Don't you know that in that locality there is not a sign of a tree or shrub of tree form growing?

A. Yes; but there are other growths which have to be got out of the way, and small brush and things of that kind

which an engineer requires a contractor to remove before making an embankment.

Q. Is it not true that on that division there is nothing growing that you could describe as brush?

A. I do not think so; I think there are, that is my recollection.

Q. What do you think there is that is growing there that you could include under your term "brush"?

A. Well, I don't know that I can specify; it is 100 miles of railroad, and if there is anything growing where the embankment is to be placed, except grass, it always has to be cleaned out of the way, and that has to be paid for extra, and in my judgment $1,000 a mile was a fair allowance for that kind of work in 100 miles of road in that place; that is my opinion.

Q. That is an opinion you have given without having any fact in your mind with reference to this particular line on which to base that opinion, because if you have any fact on this particular line, it is that fact I want to get at?

A. There is some growth, bushes there which would have to be taken out of the way, I don't know how much.

Q. Is it not true that in that country there is no timber whatsoever to be found, except where it has been planted by settlers within an enclosure, or something of that sort?

A. It is true as respects timber.

Q. Is it not true further, by reason of the fact that there is practically no vegetation whatever in that locality,

except wild grass, that the country is not more settled up, and that the lands have so little market value?

A. There is some little vegetation there, some growth.

Q. Don't you know that the attempt by farmers through that country to grow any sort of vegetation known to agriculturalists has been practically a failure, except where they irrigate, and by reason thereof, the country has not been settled up and in many other instances settlers have abandoned it as worthless?

A. That is true, but nevertheless, you do not build a line of railway hardly anywhere, I don't know of anywhere, except on sand, where that item does not come up somehow or other during the construction as an item for clearing, and I have built several lines through a very similar country, where the same conditions prevailed, and have always found that a small consideration had to be made for expenses of that kind.

Q. Well, you never built any line through this country that you are talking about now, from Julesburg to Wyoming, in the State of Nebraska?

A. No, sir; I never built any line through that country.

Q. Now, calling your attention to the next item, grading, $1,270 per mile; how did you arrive at that estimate?

A. I made an estimate of the number of cubic yards, of the approximate number of cubic yards on that division and considered the grading to be worth about fifteen cents a cubic yard.

Q. How did you undertake to find out the amount of grading on that section?

A. From the original profiles of the road.

Q. You mean by that the profiles in the office of the engineer?

A. Yes, sir.

Q. Now, in the City of Omaha, being a part of the same records you have heretofore referred to?

A. Yes, sir; that is substantially my basis for that estimate, the original profiles and my own observation as to the correctness of those profiles; the estimate of the price of fifteen cents per cubic yard is a price which to include all of the hauling or other expense connected with the actual grading.

Q. Well, through most of that country there you run over a level plane, do you not?

A. You do over a large part of it, but west of North Platte there is considerable hauling.

Q. Well, I am speaking now of the point from Julesburg to the Wyoming line. Is it not a fact that until you get in the vicinity of Sidney there would be no occasion for any hauling?

A. Well, between Sidney and—there is considerable hauling all along from a point between O'Fallons and Sidney, and beyond Sidney.

Q. And Sidney is how far from the Wyoming line?

A. I should say in the neighborhood of fifty-five miles.

Q. Now I see that you set down the value of the sidings separately from the value of the main line?

A. Yes, sir.

Q. Well, these sidings are all constructed on the right-of-way of the main line, are they not?

A. Yes, sir.

Q. And most all these sidings are in very close proximity to the main track?.

A. Yes, sir.

Q. Now, where did you get the item of $154,584 for sidings and terminals if the sidings were on the right-of-way of the terminal lands you have heretofore spoken of as being $2,000?

A. Those sidings and terminals; the terminals referred to there are the tracks at Sidney, more particularly; it ought to be sidings, etc., and I think it is probable that the word terminals there is mistake in this entry; but those sidings and terminals may be considered the sidings all along the line between Julesburg and the western boundary of the state, including all the tracks at Sidney, and the 135,000 is the number of cubic yards of grading which I found to be under those sidings and terminals.

Q. Why did you just answer, "they may be considered as including these things"; have you any personal knowledge about that?

A. That is what I intended to include, those tracks.

Q. Do you say there is a mistake in the word "terminals"; where is the mistake, in the copy or in the original?

A. In looking at it again, I do not think there is a mistake; I have used the word "terminals" to include trucks at Sidney.

Q. You have seemed to be in some doubt, yourself, in the last five minutes, as to what this memoranda did mean, haven't you?

A. Not at all; I did not read the subsequent line at first, and when I did read that I understood the meaning of it at once.

Q. I see that you have fixed the price of grading for sidings at twenty cents, while for grading on the main line, including hauling, you have only put it at fifteen cents?

A. Yes, sir; the grading of sidings invariably almost costs more, especially where the line passes through a town.

Q. The sidings do not pass through any bigger towns out there than the main line, do they?

A. No, sir.

Q. Then, that could not account for the discrepancy?

A. No; the price of fifteen cents is an average price for the main line, including towns and everything else.

Q. Now, the sidings don't create so much grading as the main line; the siding is built in close proximity to the main line, and the sidings being extended out to afford additional means for main track?

A. The sidings may be built, and usually do not require so much grade as the main line, but as a general proposition the grading about depot grounds is extensive.

Q. Is it not a general fact that there are many sidings

on the Union Pacific or along their line, that are laid down on the prairie and are not graded up at all?

A. It may be; but as a general thing the sidings are graded.

Q. As an illustration: at Central City is there not a long siding, 100 feet in length, that is laid on the prairie, and is from two to three feet below the main line?

A. Yes, sir.

Q. There are other sidings that are illustrations of the same thing along the Union Pacific at other points, are there not?

A. There are sidings or spurs laid flat on the prairie.

Q. But you have included all those in your statement of mileage of sidings on those several subdivision of the road?

A. Yes, sir.

Q. Now, on the matter of bridging between Julesburg and the Wyoming line, what streams, if any, are crossed over in that division of the road to require bridging?

A. Lodge Pole Creek and many smaller streams, dry gulches or draws which carry water only after a storm.

Q. Now, let us see first about Lodge Pole Creek, that being the only creek?

A. That is the only one I remember.

Q. That is the only one in fact that carries any water?

A. I think it is.

Q. Now, let us see how wide is that Lodge Pole Creek?

A. I cannot tell you.

Q. About how wide do you think that is?

A. I do not know.

Q. Is it not a fact that Lodge Pole Creek is less than ten feet wide?

A. Very likely it is; I think it is carried by a trestle.

Q. Now, that being the only stream of water within that distance of 100 miles, I see, however, that you put down under the head of bridging a sum total of $76,870?

A. Yes, sir.

Q. Well, that is pretty expensive for a trestle over a little stream called Lodge Pole Creek, is it not?

A. Oh, well, that includes all the trestles; there are a good many trestles on that line, and a good many culverts; it includes all of them; Lodge Pole Creek is only one out of many.

Q. Now, I don't quite understand what you mean by your last answer that Lodge Pole Creek is only one out of many?

A. The trestle is only one out of many short trestles.

Q. Can you designate where there are any others?

A. They are scattered all along the line, and there are also culverts.

Q. Can you tell the location of any other one on that line aside from Lodge Pole Creek?

A. I do not remember the particular location.

Q. Can you give the location of any other trestle on that division?

A. No, sir; I cannot give these things from memory.

Q. Can you give the height of any other trestle?

A. I can give you the height of many trestles, that is, from my general knowledge of the road.

Q. It would not be based on a knowledge of any of those trestles?

A. No, sir; not in particular, not any particular trestle.

Q. So then, the items you gave in your estimate of bridging on this sub-division is some computation or memoranda taken from some other record?

A. Taken from the structure book and from the data at hand to enter up in the structure book.

Q. Well, now, this Union Pacific Company at this time has a civil engineer, has it not?

A. Yes, sir.

Q. And he, if he were here with this book, would be able to give this information in detail, as it is set down in that book, would he not?

A. Yes, sir?

Q. Do you know why Mr. Woolworth, the solicitor of the complainant, has desired you to testify second hand as it were, as to all those matters when he had such authentic information so near at hand?

A. I have no means of knowing.

Q. You have been brought here from the City of Chicago to give evidence in this case, have you not?

A. Yes, sir.

Q. Now, the item of track laying, $892,305, how did you arrive at that?

A. The total cost of the track including sidings, has been estimated at $892,305; the track laying and surfacing has been estimated at $650 per mile, $175,576; and the item you read was the total cost of the track, including all materials in track, the ties and rails, the rails in the sidings, fastenings and spikes, etc., also track laying and surfacing.

Q. I see you make the total length of track on that division to be $116.27 miles?

A. Yes, sir.

Q. So, according to the estimate that you have made, allowing all the figures that you have given for the cost of right-of-way and construction, it would average $12,400 odd dollars per mile?

A. Yes, probably that is correct; I had not worked that up.

Q. Calling your attention next to the division from Kearney to Julesburg, I see you put the total for right-of-way $183,020, how did you arrive at that?

A. How many miles is that?

Q. Including sidings, all told, $212.47?

A. I arrived at those figures in substantially the same way I did at those in the previous division.

Q. You have no more actual knowledge of the value of the lands on this division?

A. No; I simply formed that estimate on my judgment of the country and my experience with other lines I

had built; I had no other basis which would be more reliable.

Q. And thence the same would be true of your knowledge of the item for clearing and grubbing on this division as upon the division from Julesburg to Wyoming?

A. Yes, sir; substantially.

Q. Where are the terminal lands that you have included in this division?

A. Those would be at North Platte and Julesburg, and perhaps some other points—Gothenburg and North Platte I think were the principal items considered. How much have I given for terminals?

Q. $70,560.

A. Julesburg, North Platte and Gothenburg must have been intended to be covered by that item.

Q. I see on this you have an item for buildings and furniture, etc., $305,457?

A. Yes, sir.

Q. Well, where did you get your inventory of the furniture in these buildings?

A. The inventory of the furniture is simply the aggregate value of the necessary station outfits; I made a memorandum showing about the value of a second-hand station outfit.

Q. Which is this in here, the first-class or the second-hand?

A. There are several first-class and several second-

class, the second-class were estimated at $200 each, or thereabouts, and the first-class, $400.

Q. You did not go out to inspect the furniture in any of these buildings when you made up your memoranda for the purpose of testifying in this case?

A. No, sir; I have had to fit up a great many stations at different times, and I know about what they ought to contain; in this matter I sent out and had some lists sent into me to check the question up.

Q. Lists sent in from where, from some other room in the headquarters building?

A. No, sir; this list was not made up in any room in the headquarters building; it was made up in the office of the superintendent.

A. Office of the superintendent of the Union Pacific?

A. Of the Nebraska division.

Q. That would be at Omaha?

A. Yes, sir; the prices placed on that list, and the total of the list substantially confirms my own experience in fitting up stations, that is all there is about that, I have had that often to do for the various lines I have built.

Q. That is to say, a man that has built a house in town would be qualified to testify what an hour was worth in another town simply because he had build a house somewhere else?

A. If he had built houses in some other country he would be qualified if he knew the size of the house and its

general character, he could tell very closely what it would cost.

Q. Would you be willing to buy and sell furniture on that basis yourself, or would you be willing, in this case to go and buy this furniture as worth so much money without going to see it, and pay these prices for it before you saw it. If you would, I think the Receivers would be glad to sell it?

A. That includes also—

Q. You did not answer my question whether you would be willing to buy at these prices you have put on this furniture?

A. I do not know whether I would or not; that would depend altogether on the trade; no one would buy the furniture of a depot for his own personal use without looking at it, but if he were buying a railroad for another company, if one company buys a railroad from another company, they don't always inspect the furniture of the buildings, all of it.

Q. There is no one buying the Union Pacific Railway in this law suit so far as I know, it is not a question of buying and selling a railroad. On this subdivision your total mileage, as I understand your statement, is 212.47 miles, your grand total cost is $2,398,911, that would be an average of $11,310 and a fraction per mile, would it not?

A. You gave included the sidings in that?

Q. Yes, sir?

A. I don't figure it that way, I figure it per mile of main line.

Q. Well, I am stating now your total mileage there and your grand total cost, whether that is not the average per mile of track?

Objected to by Mr. Woolworth, as it is a mere matter of argument and calculation.

A. Yes, sir, including the main line and sidings, the cost per mile of track on that division is estimated at $11,300 per mile, including—and figuring it out the other way, it is about $13,600 per mile.

Q. Do you mean by figuring it out the other way, is not to count the sidings, but the length of the main line?

A. Not counting the sidings, but the length of the main line, per mile of main line, is $13,600.

Q. I see you have included in the above subdivision an item—telegraph line, $49,317; how many wires have you included in that estimate?

A. I am not able to give you the number of wires. Excuse me, I think I can give them. From Kearney to North Platte there are nine wires, and from North Platte to Julesburg there are eight wires.

Q. Well, that includes all the wires?

A. That includes all the wires that are on the poles.

Q. Those wires belong to the Western Union Company, do they not?

A. My understanding is, five of those wires belong to the Western Union and the rest to the Union Pacific.

Q. So you have included in this estimate five that

belong to the Western Union, which is a majority of all the wires on the pole?

A. I have included this as I found it.

Q. So, that in order to get the proper value of the Union Pacific you should have to deduct the Western Union telegraph wires, would you not, and they should not have been included?

A. I do not think that the Western Union property should be included in the Union Pacific valuation; if I did include it, and I cannot tell you at this time that I did include it.

Q. You have already testified that you included all the wires that were on the poles?

A. That was what I testified; yes, sir. On further reflection I may have been mistaken.

Q. What I have inquired about with reference to the telegraph line would apply in the same manner, I suppose, to what may have been included for telegraph line on all the subdivisions?

A. Yes, sir.

By Mr. Woolworth:

Q. You mean as to number of wires?

A. No, sir; I mean as to the disposition made, and the valuation.

By Mr. Webster:

Q. Between the Western Union and the Union Pacific?

A. Yes, sir.

Q. Now, coming to the sub-division from Grand Island

to Kearney, allow me to ask you why you sub-divided this distance so as to bring it short of a hundred miles?

A. Grand Island to Kearney?

Q. Yes, sir.

A. Oh, the probability is that, in my opinion, that the right-of-way, or rather the country between Grand Island and Kearney is a different one from that between Kearney and Julesburg, quite different; it is more thickly settled, and Grand Island and Kearney are both substantially division points of the road; I had no especial point to make in that, excepting to have divisions which would have some relation to the character of the country and to the divisions of the division points of the railroad and to the character of the work done.

Q. Those are not divisions of the railroad for the transaction of its business, are they?

A. Well, Grand Island is substantially a division point of the road, and Kearney is as to the operation of the Kearney branch.

Q. The division points on the main line is from Grand Island to North Platte, is it not?

A. But Kearney is a junction point and the country between Grand Island and Kearney is somewhat different.

Q. The fact is between Grand Island and Kearney the country is almost absolutely level, is it not?

A. Yes, sir.

Q. There is no occasion for any cuts and very little grading through that country?

A. It is a cheaply graded line, yes, sir.

Q. But, however, you put a little higher estimate upon the right-of-way?

A. Yes; in going through that part of the country the right-of-way would cost more than it would beyond, that is a matter of judgment.

Q. But you have not in this instance gone into an inquiry of the value of these lands per acre for agricultural uses or for sale in the market?

A. I made some inquiries as respecting valuations, the market value of the lands, but I have not, as previously stated, depended on such values in making this valuation of right-of-way, but rather on what the right-of-way would cost, according to what experience I have had in general.

Q. Where did you get the value of the item of terminal lands in this subdivision, $114,360?

A. That is mostly at Kearney, and that estimate is very largely a matter of judgement; I cannot go into any detail to prove that that is correct; it was simply an opinion of mine that if it were necessary to replace the road at that point the terminal lands at the grounds about that Kearney depot in particular, and such other grounds as there are along that line, would cost the amount I have given.

Q. You mean that is only an opinion?

A. Yes, sir; a matter of opinion.

Q. You have not gone out there to find out what you could buy terminal land for?

A. No; I have made some inquiries as to the value of

land in that section, but I am not able to corroborate those statements by any inspection made by myself.

Q. As to the items for bridging set down in this subdivision, I suppose they are all taken from the memorandum in the engineer's office, as were the other items?

A. Yes, sir; from the structure book and other data they have there to correct that book with.

Q. I see you have this total mileage on this sub-division 51.79 miles, and your grand total of cost $672,111, which makes a little less than $13,000 a mile, does it not, and an average, including terminals, telegraph line and all other items?

A. A little less than $13,000 a mile; if the sidings and spurs are excluded in the mileage, a little less than $16,000 a mile of main line.

Q. I would like to ask, Mr. Bogue, why you volunteered to put in this answer your computation on the main excluding the sidings, to say that they would be about $16,000 a mile?

A. I have never known of a railroad having its cost estimated in that way, that is by including the sidings in the mileage.

Q. Did not my question to you clearly indicate I included the sidings to make the total mileage?

A. Yes, sir.

Q. Having made that particularly clear in my question, why did you volunteer this additional information?

A. I volunteered it this time because I did before, and

when I did before you accepted it, and you seemed to be satisfied with it. If you do not wish it that way I will not give it.

Q. I simply wanted to see your motive and purpose in trying to make this appear larger than my question would indicate.

Adjourned until 2 P. M.

OMAHA, Thursday, April 26, 1894, 2 P. M.

Pursuant to adjournment the further taking of testimony is resumed as follows, viz.:

FURTHER CROSS-EXAMINATION OF MR. BOGUE.

By Mr. Webster:

Q. Mr. Bogue, in your summary from which you arrived at a sum of money which you called the grand total of the cost or value of the Union Pacific, I see that you set down the mileage of the main line to be 472.39 miles?

A. Yes, sir.

Q. That began where?

A. That begins at the Nebraska state line, begins at the Missouri River, the Nebraska state line, and goes to the western boundary of Nebraska.

Q. Are you not mistaken in that mileage, is it not true that the total mileage of the main line in Nebraska is but 467 miles?

A. I do not think I am mistaken; there are a few

miles east of Julesburg, right at Julesburg, which are not in the state.

Q. I am aware of that, but even including that, is not the length of that simply 467 instead of 472?

A. I do not think so, I believe that to be correct.

Q. You know Oliver W. Mink, do you not?

A. Yes, sir.

Q. He would be supposed to be informed on the question of mileage in Nebraska, would he not?

A. Mr. Mink ought to have some information about that, but he would not be so well informed, as the best information regarding that is the official data of the engineer's office.

Q. That data you do not have here in the room, do you, where we are taking this testimony?

A. No, sir; I have consulted from time to time; I have no doubt whatever that the figures I have given are correct.

Q. I would call your attention to the report of The Union Pacific Railway Company to the State Board of Transportation of Nebraska, found on page 378 of the report for 1892, and call your attention to the mileage therein set down to be within the State of Nebraska, and ask you whether or not that does not appear to be 467.48 miles, including 3.95 miles of branches and spurs leading from the main line, and also excluding branches and spurs, 463.53 miles?

A. Yes, sir; that appears to be as you say, sir.

Q. In your statement to make up the 472.39 may you not have included the mileage over the bridge and to the Union Depot in Council Bluffs?

A. No, sir.

Q. Well, if it should appear that it is necessary to include that mileage to the Union Depot in Council Bluffs to make up the sum total of 472.39 miles, as given by you, then you would be mistaken, would you not, as to your leaving that out?

A. Then I would be mistaken.

Q. I see in the sum total you included one item of $81,000, representing interest in the Union Elevator Company; that is no part of the railroad, is it?

A. That is one of the investments of the company, the same as the Omaha Union Depot; I did not, in my examination in chief, make any statement regarding that, I believe.

Q. You also included, to arrive at your sum total—

A. When the first examination was made nothing was said regarding the investment of $81,000 in the elevator company; in the cross examination of yesterday mention of that came out in some way.

By Mr. Woolworth:

Q. Then you did not include that in making an estimate of the cost of reproducing the property?

A. The grand total which I gave you on the direct examination was $17,470,932; subsequently I was asked respecting the stationary engines and boilers, fixed tools and

machinery; that was including the materials and stores and supplies, etc.; the adaptation was included, but I do not remember that the Omaha Union Depot was included or that the Union Elevator was included, also that the equipment was included; that was scratched out.

By Mr. Webster:

Q. It is there in the record?

A. Those matters were not kept out, but the total that I gave was $14,000,000 and something, which comes above the items just mentioned.

By Mr. Woolworth:

Q. That is to say It don't include these items?

A. No, sir.

By Mr. Webster:

Q. To get at your estimate of the value of the mileage of the road you did include, however, an item of depot grounds and terminal lands of $4,670,066.

A. Yes, sir.

Q. Was the statement intended to include the terminal lands at Omaha?

A. Yes, sir.

Q. That included then the terminals of which you have heretofore testified?

A. Yes, sir; the terminal lands and depot grounds.

Q. That also included, did it not, the lands which are where the union depot is supposed to be?

A. No, sir—excuse me, it does include the, yes, sir;

it does not include other lands at the union depot which belong to the Union Depot Company.

Q. Well, does it not include the lands which under the organization of the union depot are supposed to be conveyed to the Union Depot Company by the Union Pacific Company?

A. Yes, sir.

Q. Do you mean to say that conveyance has not yet been made from the Union Pacific Company to the Union Depot Company?

A. That is my understanding, I have been so informed.

Q. If such lands have in fact been conveyed to the Union Depot Company, you would have to make a deduction to that extent?

A. Yes, sir.

Q. And in this estimate you have also included the lands on which the large smelting plant is located, the Omaha & Grant Smelting Company?

A. Yes, any ground occupied by the smelting plant which belongs to the Union Pacific Company has been included.

Q. According to your understanding that would include all the lands, would it not, on which that is located?

A. That is my impression, but they may have property along there outside of the Union Pacific property.

Q. And in that estimate you have also included, have you not, all the furniture of which you have heretofore

spoken as being in the depots and other buildings belonging to the railway company?

A. Yes, sir; in that estimate of buildings, including furniture.

Q. You know who Jay Gould was in his lifetime?

A. Yes, sir; I knew Mr. Gould; I have met Mr. Gould.

Q. He was a man of large experience in railroad building, was he not?

A. Many roads were built by Mr. Gould or by his company; yes, sir.

Q. And for a great many years he had a large connection, as well as control, over the Union Pacific Company, did he not?

A. Yes, sir.

Q. And he was familiar with its property, was he not?

A. He ought to have been at that time more or less familiar with it. He did not have that familiarity with it Mr. Clark, for instance, would have, but he knew of it in a general way.

Q. You knew, did you not, that Mr. Gould testified before a committee of Congress that he could parallel the Union Pacific for $15,000 a mile?

A. I did not know that.

Q. If he did so testify, you would suppose he knew pretty well what he was swearing to, would you not?

A. Well, I don't know when that took place and I cannot answer that question very clearly. It is my opinion,

though, it could not have been paralleled at any time since it was constructed for $15,000 a mile.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Webster asked you if you could locate the repair shop which you first mentioned.

A. A small repair shop; yes, sir.

Q. And you answered that you could not now locate it, what did you mean by that?

A. I meant I could not state its exact location, I have seen all those buildings and have knowledge of them; I know there is such a building, and I know its general character, but I could not state just where it was.

Q. Well, is that true of all the other buildings that are down there?

A. That is true of all the other buildings in the main; there is a great many buildings I can remember the location of distinctly, some of the smaller ones I cannot locate where they are.

Q. Now, as engineer in chief of the company, you had occasion to go upon those grounds and among those buildings, had you?

A. Yes, sir; frequently.

Q. And you superintended the construction of buildings there, did you?

A. Yes, sir.

Q. And additions to buildings?

A. Yes, sir; and superintended the construction of all the important buildings of the company.

Q. During your service?

A. They were builded under my orders.

Q. This structure book that you speak of, was that kept in your office while you were chief engineer?

A. Yes, sir; what might be considered the original book was kept in my office.

Q. Did you verify its contents by a comparison of the book itself with the structures appearing in the book?

A. I frequently had to do that, and wherever I went I generally took with me a copy of the book and I had to consult it from time to time constantly in connection with bridges and buildings, and such errors as there were in it would come to my knowledge. The recourse to that book from time to time extended over a term of years and gave me personal knowledge as to its correctness; I am able to state from my experience on the road that the book is in its main features correct.

Q. Could there have been any discrepancy between the book itself and the entries in it of buildings on the terminal grounds and the facts without your noticing it?

A. No, sir.

Q. And from that you say that the book is accurate, do you?

A. I say it is essentially correct.

Q. Well, now, these buildings that you described on the terminal grounds, what do you say, of your own per-

sonal knowledge, of the accuracy of the statement you have given of those buildings, I mean from your personal knowledge?

A. From my personal knowledge and investigation I believe it to be correct, and I declare it to be substantially correct.

Q. What do you say as to the size of the buildings?

A. I have never measured many of those buildings personally, but taking the buildings generally on the road, many of them are built from standard plans, a depot is built from a standard plan.

Q. You mean depots out on the line?

A. Yes, sir; all buildings on the ground of any importance would be made from plans in the office of the chief engineer, these plans of buildings would come under my constant supervision.

Q. I wish to direct your attention particularly to the buildings on their terminal lands in Omaha, of which you have spoken?

A. Yes, sir.

Q. Now, what do you say from your own personal knowledge of those buildings, of the accuracy of the statement you have made?

A. I say that it is substantially correct.

Q. Without the aid of memoranda you could not, I suppose, give a description of each one of those buildings from your recollection as to the description as you sat here testifying, could you?

A. No, sir.

Q. And it was to enable you to do that that you had the memoranda made which you have used in this examination?

A. Yes, sir.

Q. Would exact accuracy in stating the dimensions of those buildings be material in determining their value?

A. Not very materially.

Q. It is enough, is it not, for you to know their general size and character?

A. Well, their size to within a foot or two of each dimension would generally be sufficient.

Q. And you have in your mind here the general recollection of the buildings themselves, have you?

A. I have.

Q. Was it a part of your duty as chief engineer to make inspections of the line from time to time?

A. Yes, sir.

Q. And did you do so?

A. Yes, sir.

Q. And in doing so did you notice, was it in the line of your duty, and did you notice, in fact, the extent of sidings and turnouts and passing tracks and so on?

A. Yes, sir.

Q. In giving this testimony you say you have been assisted by memoranda taken from the chief engineer's office?

A. Yes, sir.

Q. Was that memoranda taken from the structure book you speak of, or from other statements?

A. That was taken from other statements.

Q. State about those statements of side tracks and other matters of the same character, whether the statements of those matters in the records of the office were consulted by you while you were in the service?

A. Yes, sir; frequently; sometimes almost daily.

Q. In making an inspection of the road as its chief engineer, and with your attention directed to those matters, would you, after one of those inspections, carry in your mind the extent of the different sidings and turnouts and passing tracks and so on?

A. Yes; to a very great extent, particularly all the larger ones.

Q. And did you compare your observations with the statements on file in your office?

A. Yes, sir.

Q. What do you say as to the accuracy of those statements?

A. I know those statements to be correct and accurate, and so far as the estimates that I have made are concerned, while I have not checked up the precise amount and took out each statement personally, I know the sum total of those sidings is substantially clear.

Q. Could there have been any deficiency at any place of siding as compared with the statements without it attracting your attention?

A. No, sir; that would be brought up at once, any removal of track or any deficiency of track at a station would be noted on the statements at once, within a few days.

Q. Can you give any particular reason for that?

A. The operating department in handling the road must know pretty nearly how much siding there is at each station; it is also information of value to the freight department; it is also necessary as a matter of record to know what the property is, what the railroad has from time to time.

Q. And it would be your duty, would it, to keep track of those matters?

A. Yes, sir.

Q. And to see that the records were accurate?

A. To see that they were accurate and were kept up from time to time.

Q. And as long as you were there those records were accurate, were they?

A. They were substantially accurate; yes, sir.

Q. Now, did yon go over those matters last October, to see how accurate the statements were at that time?

A. Yes, sir.

Q. Would any material discrepancy appearing in those statements, at that time, have occurred to your mind in making that estimate?

A. I think they would; in fact, there was some discrepancy, due to some increase of tracks since I left the road.

Q. Your attention was at that time called to that?

A. My attention at that time was called to that matter.

Q. Now, the statements that you have had before you in this examination you say were made up by yourself and Mr. Appleton?

A. The estimate of the buildings which I prepared was made by Mr. Appleton and myself, Mr. Appleton doing most of the work under my constant supervision and consultation with him.

Q. How extensive and minute was the examination which you and he made when you wrote up or prepared these statements data?

A. Well, it was intended to be a careful and reasonable examination of those buildings, sufficient to enable me to determine on values which would prove to be correct or which are correct.

Q. So fas as your examination was concerned, it was of the data in the office from which he made up the statements, was it?

A. Principally, although I made some other examination also on my own account.

Q. Now, what can you say of your own personal knowledge and under your own responsibility of the accuracy of the data made up by him under your observation of these several matters?

A. I can say to my knowledge it is essentially correct,

and I believe the values to be also essentially correct for such structures.

Q. How was it with reference to the information which you derived and which Mr. Cone made up?

A. You refer, I presume to the sidings?

Q. Yes, sir?

A. Well, Mr. Cone did that work at the same table with me and under my immediate supervision, and I helped him about some of it. I know that work is correct in the aggregate; I don't know that it is absolutely correct at each station, although I can say that it is essentially correct for each station, but in the aggregate I know it to be correct from such investigation as I have made myself personally.

Q. Do you mean to be understood as saying that all you know of the value of the terminal lands is what Mr. Houck reported to you?

A. No, sir.

Q. Did you ever have anything to do with any inquiry into their value at any other time than last October?

A. On two occasions at least, taking the property as a whole, on two occasions.

Q. What were those occasions of your inquiry into values?

A. One was a report on the values made at the request of Colonel Morgan of the Patterson Commission and the other was some report to the company.

Q. Was that while you were in the service as chief engineer of the company?

A. Yes, sir.

Q. Well, what did you do at that time in order to inform yourself of the values of this property?

A. I obtained valuations of adjacent property by inquiry; the company had at that time also within recent years bought a good deal of property scattered about; I used those in some degree, but not altogether in determining the value, I took into consideration the situation of the terminals with respect to the city, with respect to the industries that have grown up about them, and the railroads which reach Omaha and connect with the Union Pacific, and also with respect, or in comparison, with properties in other cities with which I was familiar, not treating it altogether as naked land, but as property, business property in a city has a valuation peculiarly its own for the business of the company, and as a feeder of The Union Pacific System.

Q. Well, it is part of the equipment of a civil engineer in charge of such property in that capacity to know the values of such terminal properties, is it not?

A. Yes, sir; in more essentials than one. The civil engineer, the chief engineer particularly, is called upon to have tracks planned, laid out and built in connection with the terminal properties. Frequently it is necessary to infringe on properties outside of properties which may be owned, and to buy additional property, and in that way the engineer gets an idea of the value of land when he desires it, and he learns that if he has to have land he has to pay for it, and at such times the fact that he wants to use it for

railroad purposes is a reason why the land has a value beyond its value simply as naked property. He also has some judgment of such things from his general experience, the importance with which railroad men regard terminal properties from this knowledge of terminal properties in large and growing cities or towns, either in the operation of an old line or in the building of new ones. While the estimate made on this particular occasion, the exact figures showing are not those of any former estimate, I think there is no very great difference, and I have those estimates somewhat in mind in making this.

Q. Did you ever go through the headquarters building and notice the furniture so as to have a general knowledge of the amount of it and its character, and so on?

A. Yes, sir; I think so in connection with this matter.

Q. Did you acquire at that time a general idea of the character of it and the amount of it and so on?

A. Yes, sir.

Q. I understand that you do not pretend to go into the details and items of that particular class of property, namely, the furniture in the headquarters building?

A. No, sir; I don't go into the details of that matter.

Q. But you think yourself competent to state that the aggregate value of all of the property there that might be called furniture is, do you?

A. I include the law library, whatever there is in that building, and I consider myself competent to say that the

figure of $35,000 which I place on it is within the probable cost.

Q. Can you tell how much?

A. I consider that a very reasonable figure.

Q. How much did you allow for the law library, do you remember?

A. $5,500.

Q. Did you include in your estimate the value of structures on the lands in this city, structures belonging to third parties?

A. No, sir.

Q. Or structures belonging to third parties on the right-of-way anywhere on the line?

A. No, sir.

Q. You are acquainted with the lands in Kansas City that the depot is on and the terminals of the companies centering in Kansas City, are you?

A. I am.

Q. What is the character of that land?

A. Very similar to this; bottom land.

Q. The land lies low along the river, does it?

A. Yes, sir.

Q. Protected from the river by rip-rap and other work?

A. And other appliances.

Q. What is the character of the Elkhorn, Omaha and Missouri Pacific roads in this city?

A. I think they would be termed bottom lands also.

Q. That is the land that extends north from the passenger depot from Webster street.

A. Yes, sir; the terminal lands in the various cities that I know that are situated along the bottoms, ordinarily termed bottom lands, Porland, Oregon, for instance, San-Francisco, California; Seattle and Tacoma, Washington; Leavenworth, St. Joseph and various other places.

Q. It is largely so in St. Louis, is it not?

A. It is largely so in St. Louis; the new yards of the Burlington which have cost a large some of money, the Burlington having spent some millions there, are on the Missouri bottom, or the Mississippi River bottom.

Q. I suppose it would be, strictly, the Mississippi River bottom, would it not?

A. Yes, sir.

Q. Now, your attention has been called to a discrepancy between your mileage on the Union Pacific, as given by you, and that given by Mr. Mink, and by the report of the Union Pacific to the State Board of Transportation, a discrepancy of some five miles?

A. Yes, sir.

Q. Mr. Bogue, can you explain that discrepancy or would you desire further time to investigate the matter so as to be able to explain?

A. Well, I don't think I can explain it now; I have intended to have those figures correct, I believe them to be correct.

Q. Your figures are taken from the engineer's office, are they?

A. Yes, sir.

Q. And from the data that was compiled there while you were in the service?

A. It was in that office, and was being compiled there from time to time; it is barely possible I have made a mistake in figures myself; I drew up this pencil memoranda myself since I came here to give this statement, and it is barely possible that I may have made a mistake somehow.

Q. I would like you to review your figures after you are through this afternoon, and be able to state if you are correct, or if you have discovered that you have made some mistake?

A. Yes, sir.

Q. Now, your attention has just been called to the elevator, that elevator is in this city, that you spoke of, is it not?

A. Yes, sir.

Q. You do not refer to the elevator on the other side of the river in which the Union Pacific has an interest?

A. I refer to the Omaha Union Elevator Company, which my understanding is has no interest in the property on the other side.

Q. Well, now, you say the interest of the Union Pacific in that elevator is $81,000?

A. Yes, sir.

Q. Now, Mr. Bogue, is it not a fact that every rail-

road like the Union Pacific, a large part of whose business is the carrying of grain, builds and owns and operates its own elevator, or elevators, almost everywhere in the western country?

A. It is so universally; they either build and own them themselves or they have an interest in them and build them through other companies.

Q. But they put an investment in these elevators?

A. Yes, sir; that is my observation.

Q. Sometimes contribute something to the capital stock of a company partly owned by private individuals?

A. Yes, sir.

Q. And that for the purpose of providing themselves with warehouses for grain, I suppose?

A. Yes, sir; facilitating for the movement of grain; I think that is especially true of all of the new lines of the country.

Q. It is true, is it not, not only in the western countries, but true also in all parts of the country?

A. That is my understanding.

Q. The New York Central and the Pennsylvania Central and all those large companies carrying large quantities of grain equip their roads with grain elevators just as they do with warehouses, do they not?

A. Yes, sir.

Q. Then it would have been perfectly legitimate to have included the interest of the Union Pacific in the elevator in this estimate you have made, would it not?

A. Well, I thought so.

Q. Now, I want to call your attention to the depot upon which you have been catechised; that depot is approached by a very expensive viaduct over several streets of this city, is it not?

A. Yes, sir.

Q. And the law requires the railroad companies to contribute to such a structure, do they not?

A. Yes, sir.

Q. Particularly when the city council requires them to do so?

A. Yes, sir; and by the way, that is one of the viaducts in the United States.

Q. And very substantially built, is it not?

A. Very substantially built; it is one of the best in this country; I do not suppose there are four viaducts in the whole United States that are wider than that.

Q. And the construction of that work contributed, did it not, very largely to the value of the Union Pacific grounds, as railroad grounds in that vicinity?

A. Yes, sir; it improved their value, especially because it made it easier to move trains and facilitated passage of people back and forth across the tracks without endangering their lives to get on either side of the grounds or property with facility.

Q. Formerly there was a large passenger depot on these grounds, was there not?

A. Yes, sir.

Q. Do you know how much it cost?

A. I do not. I have known, but I do not remember; it cost quite a considerable sum. It consisted of a large train shed and of a depot building along one side of it. In its day it was considered a very good building, so I have been told.

Q. One plan for providing Omaha with a depot utilized that structure, did it not, as far as it would go?

A. Yes, sir.

Q. That building was taken down with a view of erecting another depot on the same site, or on lands contiguous thereto, was it not?

A. Partially on the same site and partially on contiguous property.

Q. And that work was actually rated upon the parties interested in it, was it not?

A. Yes, sir.

Q. The proposed depot building was on the Union Pacific lands, was it not?

A. Yes, sir, that was on the Union Pacific lands.

Q. And some of the terminal lands of the Burlington were to go into the depot grounds, were they not?

A. Yes, sir; as a part of the yard for tracks and a part of the train sheds, as I remember.

Q. Was that work begun while you were in the service?

A. Yes, sir; the plans were prepared under my direction.

Q. The depot grounds were all reorganized, were they not, with a view to a new erection?

A. Yes, sir; a large amount of work was done there in getting ready for that erection, and to provide temporary facilities for the transaction of business until that erection was completed.

Q. The Union Pacific and the Burlington Companies were really the owners of the Omaha Union Depot Company, were they not?

A. Yes, sir.

Q. And they contributed each a part of their terminal grounds for the site of the depot, and the depot grounds, did they not?

A. Yes, sir; at least they agreed to contribute. I have no personal knowledge that the transfers have been made; my understanding is that they have not been as respects the Union Pacific.

Q. Did you have charge of laying out the new Union Depot grounds?

A. Yes, sir; it was laid out under my orders.

Q. You made the plans for those grounds, did you?

A. They were made under my immediate supervision, and to my entire satisfaction.

Q. And that work and payments for it passed through your office, did they not?

A. Up to the time that I left the company.

Q. The erection of the depot building proper was arrested, was it not, after it had gone up one story?

A. After it had gone up about twenty-six feet.

Q. To a level with the viaduct?

A. Yes, sir; a considerable amount of material was left on hand and in the hands of the contractor.

Q. It had been bought and paid for by the two companies?

A. Yes, sir; it belongs to the company.

Q. That is the matter for which you make an item in this estimate, is it?

A. Yes, sir.

Q. That work was arrested by controversies between some of the people of Omaha and the Union Depot Company and the two railroad companies, was it not?

A. Yes, sir; that was my understanding; I was not here at Omaha at that time; I was in the west; I had knowledge of what was going on through my correspondence with my own office here, and the papers which reached me, and reports, etc.

Q. Well, the expenditures which were made by the Union Pacific were legitimately made in the prosecution of that enterprise, so far as their interest in it was concerned?

A. I think there is no doubt about that; it was certainly so as represents transactions that went through my hands.

Q. And that covered material and labor and work?

A. It covered material and labor and work and some purchases of land also which were made by the Union Depot Company at this end of the grounds.

Q. Very considerable lands bought there, were there not?

A. Lands to the value of $140,000.00.

Q. You knew about those purchases, did you?

A. Yes, sir.

Q. You had to do with them so far as a chief engineer would have to do?

A. Yes, sir, I did at that time.

Q. A large part of those lands were condemned by proceedings in the courts, were they not?

A. Yes, sir, I believe they were.

Q. Now, in making up your estimate of the value of the depot grounds, did you also have in view the sums paid for those lands?

A. Yes, sir, and also the appraisement of the lands of the Union Pacific, which were to be transferred to the Omaha Union Depot Company. An appraisal was made by men selected here in the city, under agreement, and that was to be the valuation which would be charged against the Omaha Union Depot Company for those lands.

Q. For the credit of the Union Pacific?

A. For the credit of the Union Pacific; I saw the original appraisement and report of that matter and have a copy of it.

Q. That appraisement was made for the purpose of equalizing the contributions to the depot company of the two railway companies, the Union Pacific and the Burlington, was it not?

A. That is my understanding, yes, sir.

Q. Did you have anything to do with the appraisement, or did you have personal knowledge of the appraisements of the Burlington Company's land for that purpose?

A. I did not.

Q. The other viaducts over streets in the city and over the tracks of the Union Pacific and Burlington Companies which you have mentioned, they were built, were they, as the Tenth street viaduct, under a law requiring the railroad companies to contribute to the cost of their erection?

A. Yes; sir.

Q. And the sums you have mentioned were the sums charged against the Union Pacific for the cost of building those structures?

A. Yes, sir; charged and paid by the Union Pacific.

Q. Well, supposing another railroad company were to build—suppose the Union Pacific were entirely out of the way, suppose it had never been built and another railway company would come and build on the same line and these structures had to be thrown over their tracks, how would the new company or the supposed company be charged for those erections?

The State Board of Transportation objects to the opinion on a matter of law.

Q. Would they be in the same position as the Union Pacific?

A. They would be in the same position, naturally that would be a part of the necessary construction expense.

Q. That is so everywhere, is it not? 1301

A. Yes, sir; that is so everywhere.

Q. Now, there are viaducts erected down in South Omaha, are there not, over tracks of the Union Pacific?

A. Yes, sir.

Q. And that company was compelled to contribute to the erection of these viaducts, was it not?

A. Yes, sir.

Q. Did you take those viaducts into account in making up your expenditures of the company at South Omaha?

A. Of the Union Pacific Company?

Q. Yes, sir.

A. My understanding is, that the Union Pacific did not pay any proportion of those viaducts, that is my recollection, and I have no reference to that here.

Q. Well, those viaducts do cross the Union Pacific tracks, do they?

A. Yes, sir; but I am very positive they were put across there by other people.

Q. You were asked if there are any warehouses on the lands of the Union Pacific Company that were five or six stories high, are there any such warehouses on the Union Pacific lands.

A. I do not recall any; there are warehouses on the Union Pacific lands, but I don't recall any of that height.

Q. You did not include them in your estimate anyway, did you?

A. No, sir; I did not include any warehouses belonging to anybody but the Union Pacific Company.

Q. Is it not a fact, that all that was done for the protection of the river front from the water was done by the railroad company or the smelting company and none of it done by the general Government?

A. I think that is undoubtedly a fact, although I have no personal knowledge of it; I never heard of any work being done by the general Government on the water front of the Union Pacific; I have heard a great deal about work that was done by the company, and of course the work going on at the smelters is continuous, that I have knowledge of; all that happened before I came to the company.

Q. The Government did work elsewhere on the river, not very far from these lands, but on the other side of the river, did it not?

A. That is my understanding.

Q. The walls and rip-rap that was done on the other side of the river for the immediate protection of the bridge was done by the Union Pacific, was it not?

A. Yes, sir.

Q. Do you know about the Union Pacific taking out a great quantity of stone, on the other side of the river and bringing it over to this side and putting it in on this side where it seemed to be necessary to protect the land from the current?

A. Yes; I do not know where they obtained that stone, but I know they obtained a large amount of stone somewhere

and put it onto the river bank to protect it from the current.

Q. You are asked particularly about the bridging in the extreme western part of the state; in that connection you mentioned a bridge across the Lodge Pole, now I believe you said you could not remember the location of the particular bridges or trestle work in that region?

A. No, sir; I know there were many there, not only trestle works, but a good many culverts.

Q. Those works were erected for the purpose of carrying, many of them I mean, for the purpose of carrying off water when there was a heavy fall?

A. Yes, sir; the ordinary surface water.

Q. Drying up in a hot season?

A. Yes, sir.

Q. But that trestle is just as necessary over such runs or such places where the water dries up in the hot season as if the water ran all the time, is it not?

A. Yes, sir; sometimes almost more so; such water sometimes does a great deal of destruction.

Q. Was it a part of your duty as chief engineer of the company to take notice of those trestles and bridges?

A. Yes, sir; those trestles and bridges were carried in the structure book the same as the buildings.

Q. Each one of them in an entry by itself?

A. Yes, sir; the general plans of such structures I had in my office, so I had knowledge of them; I had knowledge of the bridges I inspected from going over them frequently, and I had knowledge of the correctness of the records per-

taining to those bridges from my continual experience with the matters relating to them, extending over the period of my service with the company.

Q. And from that personal knowledge of them you have spoken here, have you?

A. Yes, sir.

Q. Although your figures have been taken from the books?

A. The figures have been taken from the official record; the books and such data is at hand, but has not been posted into the books. I might explain that it is contemplated to start a new book so that the most recent information has not been worked into the books.

Q. The telegraph line here to the west line of the state has been reconstructed, has it not, within a period of six years?

A. Yes, sir; six or eight years; substantially reconstructed all the way through.

Q. New buildings have been put in?

A. Yes, sir.

Q. And those poles are very large, are they not?

A. Very large and set very deep in the ground, carry a large number of wires.

Q. Do you know of any other place in this country where there is any such line of telegraph as there is between Omaha and Ogden, in respect of the large size and height of the poles, the number of arms, and the number of wires, and the complete equipment?

A. I think it the best telegraph system I have seen.

Q. It carries the trans-continental telegraph business, does it not?

A. Yes, sir.

Q. Do you remember how many wires there are between here and Grand Island, used by the railroad company for its service, distinct from the Western Union?

A. Pertaining to the company business, solely?

Q. Used by the company in the operation of its trains?

A. Take it from Omaha to Valley—I can give you this in sections.

Q. Yes, sir.

A. From Omaha to Valley there are six wires for six miles and five wires for twenty-eight miles, devoted to the use of Union Pacific trains, or Union Pacific railroad business proper; from Valley to Columbus, four wires; from Columbus to Grand Island, four wires.

Q. Those four wires are carried through, are they not, to Ogden?

A. Well, I can answer that question; they are carried to the western boundary of the state, at least, and I presume, as a consequence, that they go through with perhaps an increase of wires between Cheyenne and Ogden.

Q. Now, the $49,317.00 which you gave as the cost of the telegraph line, that was from here to Grand Island, was it?

A. No, sir; that was $49,316.00, from Kearney to Julesburg.

Q. And the whole line from Omaha to the west line of the state should be valued at the same proportionate figure per mile, should it not?

A. Near Omaha the value increases somewhat owing to various little matters, but it is not very materially increased; that portion would be pretty near it; it increases somewhat near Omaha, but not very much.

Q. Don't the transportation, too, of material to the west about equalize it?

A. I can give you those items in detail.

Q. The Union Pacific paid about $250.00 a mile on the average to the erection of that telegraph line, did it not?

A. I think the general average comes to something over the $300.00, the actual expense.

Q. For the Union Pacific?

A. For the Union Pacific.

Q. Now, besides the wires used for the operation of the trains the Union Pacific is obliged to keep itself ready to do any commercial business that is tendered to it, is it not?

A. That is my understanding, under the present arrangements.

RE-CROSS-EXAMINATION.

By Mr. Webster:

Q. Do I understand you to say that the building of these viaducts, particularly the Tenth street viaduct is an

advantage to the railway company in the facility in which its trains are handled?

A. Yes, sir.

Q. To that extent it was an improvement to the value of the right-of-way and terminals of the Union Pacific Company?

A. Yes, sir.

Q. Do you say that you took that into account in giving your estimate of the value of the property and terminals of the Union Pacific in this city?

A. The increased valuation due to the building of that viaduct, no, sir.

Q. Why did you say it was an advantage to the railway company and an improvement to its property and not have taken that matter into account?

A. I do not think it occurred to me to take it into account.

Q. When you were viewing these grounds and the right-of-way to ascertain their value, did you not look them over sufficiently to ascertain what you should take into account?

A. I thought I did.

Q. What do you think about it now, whether you did or did not?

A. I think it would have been very proper to consider the property of some more value on that account, but it would have been a very difficult matter to fix any kind of an increased valuation due to such cause.

Q. What do you say now; was it such an improvement as increased the value of the property, or not?

A. It certainly benefitted the property to the extent that it made it safer to operate the trains across Tenth street.

Q. Aside from the mere question from it being safer?

A. And with greater rapidity and greater facility.

Q. And then it was an advantage to the railway, was it not?

A. I think so, beyond a doubt.

Q. Do you think, if you were to improve your property in the city by paving the street in front of it and having sewerage put in you would consider your property improved and then make a separate item of taxes and add them together, or would not the increased value of the property represent the value of your improvements?.

A. I think my property would be worth whatever I could get for it, irrespective of taxes or improvement.

Q. You would not pay taxes on the value of your property, and then add your improvements on to that, and then value them both?

A. I would get as good a trade on the property as I could.

Q. That is your idea you have had here, to get this Union Pacific up as big as you can?

A. Hardly.

RE-DIRECT EXAMINATION.

By Mr. Woolworth:

Q. You did take in the cost of the viaducts, did you?

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A. Yes, sir.

Q. Adding to the value of the property the expense of the viaducts was a very proper way, was it not, of determining how much the property was improved by them?

A. I think that was a very fair—I think that would be a very fair way of getting at it; the company certainly thought it was worth some expenditure to avoid both street crossings. I think it very proper to represent the increased value of the property due to improvements.

Q. Now, it has been drawn out here in one of the questions of Mr. Webster, that you have made these estimates for the purpose of swelling the property of this company as much as possible; what directions did you have when you came here to make up this estimate last fall?

The State Board of Transportation objects to any questions about instructions, so long as we do not know who gave them or who the parties were, nor what their interests were; we judge this man's testimony by what he himself has sworn to, not by what third parties have said.

A. The instructions received were to make an estimate which would be reasonable and proper to get the cost of reproducing the property at present.

Q. Who employed you to make that investigation?

A. Yourself.

Q. And did anybody else have anything to do with you about it?

A. No, sir.

Q. Did you have any directions from anybody but myself on that subject?

A. No, sir.

Q. In making up these figures, Mr. Bogue, what is the fact with reference to your effort to put the value above or below, or at what was a reasonable cost for reproducing this property?

A. I have done the best I could to arrive at the most probable and the most reasonable cost prices, etc., being considered as of last October, to reproduce the propetry; I have made a conscientious examination of it within the limits of time, and have done the best I could with it; I believe the estimate to be correct, and I believe if any board of engineers were to be put on this property and were to go over it carefully and conscientiously they would be just as apt to state that to reproduce the property would cost more as less. I have certainly done the best I knew how; I cannot afford to do anything else.

RE-CROSS EXAMINATION.

By Mr. Webster:

Q. Mr. Bogue, you did not suppose Mr. Woolworth was interested on my side of this case to reduce the value of this property, did you, when you were employed to do this work?

A. No, sir.

Q. And you did not have any thought that Mr. Woolworth had any interest or desire in this case to show by your testimony that this property was worth less than its actual value?

A. Mr. Woolworth, as I have said, instructed me to get as near its actual value as could be reasonably expected.

Q. You knew at that time that Mr. Woolworth was interested to show this property to be of great value for the purpose of defeating this law suit or gaining his point in this case?

A. Well, Judge Woolworth told me—

Q. I am not asking you what he told you; I am asking you merely what I have embodied in my question.

A. Please ask your question again?

Q. You knew at that time that Mr. Woolworth was interested to show this property to be of great value for the purpose of defeating this law suit or gaining his point in this case?

A. I think, as a matter of absolute fact, I did not know that from the instructions given me; I knew that he wanted this information to use in this suit, and on his side in this suit; that much.

Q. You knew his purpose in this suit was to defeat, if he could, the maximum freight rate law of the State of Nebraska?

A. I knew he intended to win in a law suit if he could, and I knew he wanted this information in that law suit as to the facts of the values of the property.

By Mr. Woolworth:

Q. Your valuations would not have been affected in any way by Mr. Woolworth's wishes in that respect, in one way or the other, would they?

A. No, sir; I did not propose they should be affected —that they should be affected in that way.

W. W. BALDWIN, sworn, testified in behalf of plaintiffs as follows, viz.:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name and profession?

A. W. W. Baldwin; I am a lawyer by profession.

Q. What are your relations to the Chicago, Burlington & Quincy Railroad Company?

A. I am the assistant to the president, and it is among my duties to superintend the corporations owning the proprietary roads of the Burlington system and their relations with the Chicago, Burlington & Quincy Company.

Q. State the nature of the title of the Burlington road to the Atchison & Nebraska Railroad Company?

A. It is the owner of the road through, and its property through a perpetual lease, that is, for 999 years, and the ownership of its entire capital stock.

Q. How did it acquire the capital stock?

A. It was acquired by the Burlington & Missouri River Railroad in Nebraska in connection with the acquisition of the property through the lease, and became the property of the Chicago, Burlington & Quincy through its

consolidation with the Burlington & Missouri River Railroad in Nebraska.

Q. What does the stock of the Atchison & Nebraska Railroad represent?

A. Nothing of value now, except the franchise, the stock is kept alive and the organization is preserved for the purpose of preserving the franchise and for a matter of convenience, all being held in the treasury of the Chicago, Burlington & Quincy, in the name of trustees, I believe.

Q. Does it represent any property?

A. No, the property belongs to the Burlington road through the lease.

Q. State the nature of the travel of the Burlington road to the Omaha & Southwestern?

A. Substantially the same as in the case of the Atchison & Nebraska, it is held under the lease perpetuity, that is for ninety-nine years.

Q. Where is the stock of the Omaha & Southwestern?

A. In the treasury of the Chicago, Burlington & Quincy, standing for convenience in the name of trustees.

Q. What does it represent?

A. Substantially nothing any more than the stock of the Atchison & Nebraska does.

Q. Now, state the relations of the Burlington to the Nebraska Railway Company?

A. They are almost identical, so far as the title and ownership are concerned, with the cases just mentioned; that road is owned under a lease for 999 years also.

Q. And what about the stock?

A. The stock is held in the same way as the stock of the Atchison & Nebraska and the Omaha & Southwestern.

Q. Now, state with reference to the Omaha & North Platte?

A. That is substantially the same, except that the lease is in its express terms in perpetuity, that is for and during the chartered existence of the local company and any renewal or renewals of that company.

Q. Where is the stock of that company?

A. In the treasury of the Chicago, Burlington & Quincy.

Q. And what does that stock represent?

A. Nothing but the franchise.

Q. What do you say of the Lincoln & Northwestern?

A. That is the same substantially, excepting that the lease in the case of that company is, I think, for 999 years.

Q. Is any part of the stock or bonds of the companies reported as assets of the Chicago, Burlington & Quincy?

A. No, sir; the properties themselves are reported, but the stocks are not investments; the properties of the roads are the investment, and there is no reason for reporting those stocks; they are simply held, as I explained, to preserve the corporate organization and for convenience.

Q. How about the bonds?

A. In any case the bonds of these local companies should be purchased by the Chicago, Burlington & Quincy for investment for its sinking funds, they would be reported,

they are reported in the annual report; where the bonds are retired or exchanged for other bonds of the general consolidated mortgage, of course they are not reported because they are not an investment.

Q. State whether or not in respect of either the stock or bonds of either of these companies there is a duplication of cost or of the security?

A. Certainly not; the entire cost of the properties is reported in the construction account of the C., B. & Q.; its mileage for instance in Nebraska, 2,200 miles, is made up in part of these lines, and its construction account shows their cost; if in addition to reporting the properties themselves of which it has the title it also should report the stock that would be a duplication.

Q. Well, do they do that?

A. No; the stock is merely nominal, it possesses only a nominal value, it represents no property, it has no property upon which to earn anything, the road of which it is the stock, is owned and operated by the Chicago, Burlington and Quincy, and all its income goes into the Chicago, Burlington & Quincy treasury.

Q. You do report some stocks, do you not, of companies that are subsidary to the principal company, to the C., B. & Q.?

A. The C., B. & Q. in its reports to its stockholders and to the state and and national authorities reports all stocks and bonds which are held for investments such as stocks in the St. Louis, Chicago & Northwestern, Hannibal & St.

Joseph, Kansas City, St. Joseph & Council Bluffs; those roads are not leased to the C., B. & Q., they are not owned by the C., B. & Q. by conveyance or title, they are operated independently, they have their own earnings and make their own separate and independent reports; those stocks are reported, but that is not the case with reference to any of the corporations in Nebraska.

J. H. MANNING, sworn, testifies in behalf of complainants as follows, viz.:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Give your full name and occupation?

A. J. H. Manning; master mechanic Nebraska division of The Union Pacific Railway Company.

Q. Do you know the value of the machinery and tools of the Union Pacific on the Nebraska division?

A. Yes, sir.

Q. State what it is?

A. The total is $816,967.25.

Q. That includes the machinery and shops which are at Omaha?

A. Yes, sir.

Q. And the shops at Grand Island and North Platte?

A. Yes, sir.

Q. And at other points in the division?

A. Yes, sir; Iowa, too, remember Council Bluffs.

Q. Leave out Council Bluffs?

A. Then it would be $804,396.25.

CROSS EXAMINATION.

By Mr. Webster:

Q. How do you know this?

A. From my familiarity with the tools.

Q. Have you any list showing what these tools are?

A. Yes, sir.

Q. Who made it for you?

A. I made it myself; that is, my clerks made it, under my supervision.

Q. Then, you did not make it yourself?

A. I did not actually write it down; no, sir.

Q. Did you go out to Grand Island to look at the tools there?

A. In my capacity as master mechanic of the division I am out there all the way from three times a month.

Q. That don't answer my question; I simply asked you if you went there to have this list made up?

A. No, sir.

Q. Were you at Grand Island when the list was made up?

A. No, sir; the list was made up in Omaha.

Q. Well, is the same true of the list at North Platte?

A. Yes, sir.

Q. The same is true of all the shops on the Nebraska division of the Union Pacific, is it?

A. Yes, sir.

Q. Then this whole list was made up at Omaha?

A. The list was written up at Omaha; yes, sir.

Q. Have you got with you the memorandum from which you made your answer as to the total value of the machinery and tools?

A. Yes, sir.

Q. And did you use that in giving your testimony as to the total valuation?

A. The valuation of the tools referred to, I put on myself.

Q. That is not what I asked you; I asked you whether you used this memorandum, which you had, in answering as to the value of those tools and machinery?

A. Yes, sir.

Q. Now, then, will you allow me to see the memorandum which you looked at when answering that question?

A. Yes, sir.

Q. You have not brought with you the list showing the tools and machinery at these respective points, have you?

A. Yes, sir.

Q. Is the paper which you hand me for inspection, the paper you speak of as the list?

A. No, sir; that is the memorandum I took off so as to have it with me to answer those questions.

Q. Where are the lists you refer to?

A. Here they are.

Q. Will you allow me to see the page relating to Columbus, for illustration?

A. Here it is.

Q. In looking at the list for Columbus you have set down one portable forge, and carried out to the right the figures 32. That 32 indicates what?

A. Dollars.

Q. Then that sum total at Columbus is $175.00?

A. Yes, sir.

Q. Who wrote these figures on this line that you produce here?

A. A clerk in the office from a memorandum furnished.

Q. Furnished by whom?

A. Myself.

Q. Now, how did you come yourself to furnish a memorandum of $32.00 to be put down opposite one portable forge at Columbus.

A. I do not understand you.

Q. How did you fix $32.00 to be the price put on that portable forge located at Columbus?

A. Knowing the kind of a forge and the price of it, its original cost, after getting a list of the tools I marked opposite of it what we consider it worth at the present time.

Q. Do you mean that that $32.00 would buy a new forge of that kind?

A. Yes, sir.

Q. Now, is that also true of the other figures that you put opposite of the other items at Columbus, to wit, a sum of money which would buy the same articles now?

A. Yes, sir.

Q. Now, did you go through the price list in the same way on the tools and machinery at Beatrice?

A. Yes, sir.

Q. And the same way at Grand Island?

A. Yes, sir.

Q. And the same at North Platte?

A. Yes, sir.

Q. And the same then at Omaha?

A. Yes, sir.

Q. Then the valuation that you gave represents a sum of money which would buy the same list and class of articles new?

A. Yes, sir; to the best of my ability, that was what I figured on.

Q. Now, many of these tools and pieces of machinery have been in these shops for a great many years, have they not?

A. Yes, sir.

Q. And some of them for twenty years, have they not?

A. Yes, sir.

Q. And some ever since the shops were built at these respective towns?

A Longer than that, yes, sir.

Q. Then, I see, to make up your sum total you added another item of $8,000.00 to represent the cost of putting these tools in place?

A. Yes, sir.

Q. When did you have this list made, and the prices set down?

A. I could not say as to that, I think though it is six or eight months ago, if I remember rightly.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Did you make any allowance for wear of the boilers?

A. No, sir; the figures that I furnished there are what the tools and boilers could be bought for to-day.

Q. Would you make any per cent. of reduction for the wear of the boilers?

A. Yes, sir; I think from eight to ten per cent. would be a fair depreciation.

Q. What do you say about the other machinery?

A. I think from one and one-half to two per cent.

Q. You think that would be a reasonable reduction to be made for those two items?

A. Yes, sir.

Q. Has this machinery been kept up in condition by repairs or otherwise?

A. Always; in fact, improved upon in several cases.

Q. So that the machinery is better than it was when it was originally bought?

A. Well, I would not say as to that; but it is equally as good; I would not like to say it was equally as good in all cases, but in the majority of cases it was.

Q. Give the item of boilers?

A. Here in Omaha?

Q. Well, the item of boilers, so as to see the sum on which a deduction of ten per cent. might be made?

A. $59,350.00.

Q. And the other machinery, to ascertain upon what sum the deduction of one and one-half to two per cent. may be made.

A. $816,967.25.

Q. For what purpose did you have the lists made up; was it for the purpose of this investigation, or for other uses of the company?

A. I could not say as to that; at the time the list was made up I did not really know what it was required for.

Q. Then you did not make it up with any reference to this investigation?

A. No, sir; when I made it up I did not know what it was made up for, they asked me to make it up, and I furnished it to the best of my ability.

EX-CROSS-EXAMINATION.

By Mr. Webster:

Q. Then, when you furnished that list you were not instructed to make any allowance for the wear and tear of machinery?

A. No, sir.

Q. And as a result you did not make any deductions when this list was made up?

A. No, sir.

Q. You do not think that machinery after being used twenty years or tools after being used for twenty years, are as good as new, do you?

A. Yes, sir; in some cases.

Q. You think it is like wine, it improves with age?

A. Not necessarily improved; in some cases it is improved, yes, sir; a very good comparison in some cases.

JOHN W. GRIFFITH, sworn, testifies in behalf of complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your full name and occupation?

A. John W. Griffith, general purchasing agent of The Union Pacific System.

Q. Do you know the value of the supplies on hand in your department?

A. Yes, sir.

Q. Of The Union Pacific Railway Company?

A. Yes, sir.

Q. What is it?

A. Our accounts are not made up to a later date than to March 1st, 1894, but the balance on March 1st, 1894, of material on hand was $1,576,961.30.

CROSS-EXAMINATION.

By Mr. Webster:

Q. That is material for what line of road?

A. Material for all the lines in The Union Pacific

System, comprising a railway mileage of 5,863 miles; I have eliminated from our former mileage the lines of the Union Pacific, Denver & Gulf, which are now operated by separate Receiver, and also the lines of the Fort Worth & Denver City Railway Company and the St. Joseph & Grand Island Railway, which roads carry their separate material accounts.

Q. And that is the way you arrive at your mileage of 5,863 miles?

A. Yes, sir.

Q. That would be on a mileage basis of about $300.00 a mile.

A. A little less than that, $268.97 a mile.

Q. And your figure for the Nebraska mileage of the Nebraska Company, how many miles is that, taking out your St. Joe & Grand Island?

A. The Nebraska mileage is $1,084.04.

Q. That would be then, for your mileage in Nebraska, $300.00.

A. Yes, sir.

RE-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Griffith, is it a fair division to divide these supplies on mileage?

A. No, sir; not by any means.

Q. What would be a fair division for the main line of the Union Pacific, I mean in Nebraska?

A. The main line of the Union Pacific would carry at least three times the amount of material per mile of the

average for the main line and all its branches, perhaps even more that that; I think that three times is an under estimate, more nearly five times, for the reason that the business is five times greater, and all the rolling stock and tracks and fixtures of every kind are much heavier and more expensive than on the branch lines.

RE-CROSS-EXAMINATION.

By Mr. Webster:

Q. If, on a mileage basis it was $300.00 a mile, or $300,000.00 for the miles in Nebraska, and you should multiply that by five to get your Nebraska ratio, you would have all your material in Nebraska, and none of it for your 4,800 miles outside, would you not?

A. You understand, sir, that I am talking about the material that is used, and not material that is on hand; we use probably in a year four times as much material as we have on hand, so that your comparison is not exactly right, as perhaps mine may not be exactly right.

Q. As long as you are willing to concede that we may both be in error—

A. You see the difference; in the one case I speak of material on hand, and in the other case of the material used in operation on the road; while we have $1,576,000.00 worth of material on hand we use about $6,000,000.00 in the course of the year.

Q. Well, according to your notion, then, material will wear out?

A. Yes, sir; very rapidly.

Q. Did you hear the testimony of Mr. Manning that tools and machinery rather improved by age and use than otherwise?

A. I did.

By Mr. Woolworth:

Q. That might be the case about machinery and not be the case with material you have used in your office?

A. Mr. Manning's statement was probably based on the idea that tools and rolling stock are always kept in repair, and that while it is constantly under expense for repairs, yet its general condition is maintained.

By Mr. Webster:

Q. Do you know whether Mr. Manning had a mind when he testified that you were coming here as his interpreter?

A. You asked me a question and I have told you what I think he thought about it, and what I know myself to be the fact.

Q. Do you understand that Mr. Manning was speaking of cars when he answered, and included cars in his estimate as you have done in your explanation?

A. No, sir, you asked me about machinery, and my remarks were general.

Q. Why did you branch off and include cars, if Mr. Manning did not speak about them, and say you supposed he meant to include repairs on cars as well as on machinery?

A. I do not know as I had any special call to make

any remarks on the subject except as it was brought out by your question.

Q. So you took the liberty of volunteering information and including cars as an addenda to machinery?

A. Merely as an illustration.

Adjourned until Wednesday, May 2d, 1894, at 10 o'clock A. M.

OMAHA, Wednesday, May 2nd, 1894, 10 A. M.

By agreement of parties the further taking of testimony is adjourned until two o'clock this afternoon.

OMAHA, Wednesday, May 2nd, 1894, 2 P. M.

Present:

J. M. WOOLWORTH,

Solicitor for Complainants.

JOHN L. WEBSTER,

Solicitor for defendants, Members of the State Board of Transportation.

Pursuant to adjournment the further taking of testimony is resumed as follows, viz:

ERASTUS YOUNG, sworn, testifies in behalf of complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name and occupation?

A. Erastus Young; auditor for the Receivers of The Union Pacific System.

Q. Were you auditor of the railroad company before it passed into the hands of the Receivers?

A. Yes, sir.

Q. How long have you been the auditor?

A. Since July 1st, 1893.

Q. Can you state by months the earnings of the system for the years 1892 and 1893, and also give a memorandum in that connection of the increase or decrease of the number between those years?

A. I can.

Q. Will you do so?

The State Board of Transportation objects to this for the reasons, first that the same is not proper rebuttal testimony; and second it is irrelevant and immaterial.

Q. You may give it.

A. Do you want me to state it or file this statement?

Q. You may give the stenographer the memorandum and that will be your answer to the question?

A. I will file this statement for my answer. (See page 1209.)

Q. Can you give the number of tons hauled one mile for the first half of the years 1893 and 1892 and the last half of those two years, together with the memorandum of the total for the half of each of those years and of the increase or decrease of the number of tons per mile in Nebraska?

The State Board of Transportation objects to this for the reasons: first, that the same is not

THE UNION PACIFIC SYSTEM

As operated from Omaha, St. Joseph, Denver and Fort Worth.

Months	Gross Earnings		Increase	Decrease
	1893	1892		
January	$3,037,693.46	$3,050,468.41		$12,774.95
February	2,750,411.94	2,782,111.27		31,699.33
March	3,070,503.58	3,143,905.18		73,401.60
April	3,030,888.17	3,083,885.12		52,996.95
May	3,320,175.86	3,260,373.27	$59,802.59	
June	3,229,355.45	3,756,772.86		527,417.41
Total first six months	$18,439,028.46	$19,077,516.11		$638,487.65
July	$2,734,330.13	$3,615,357.96		$ 881,027.83
August	2,545,018.58	3,888,764.71		1,343,746.13
September	2,978,186.84	4,394,683.50		1,416,496.66
October	3,499,569.83	4,493,268.91		993,699.08
November	3,201,032.67	4,076,570.04		875,537.37
December	2,656,235.17	3,588,936.97		932,701.80
Total last six months	$17,614,373.22	$24,057,582.09		$6,443,208.87
Grand total	$36,053,401.68	$43,135,098.20		$7,081,696.52

Auditor's Office,
Omaha, April 25, 1894.

Erastus Young,
Auditor.

proper rebuttal testimony; and second, it is irrelevant and immaterial.

A. I can.

Q. Give it, if you please?

A. I will file this statement for my answer. (Said statement is as follows):

THE UNION PACIFIC SYSTEM,

As Operated from Omaha, St. Joseph, Denver and Ft. Worth.

TONS HAULED ONE MILE IN NEBRASKA.

	1893	1892	
First six months	224,645,566	223,671,647	Inc. 973,719
Last six months	266,596,469	304,217,016	Dec. 37,620,547
Total for year	491,242,035	527,888,863	Dec. 36,646,828

AUDITOR'S OFFICE,
OMAHA, NEB., April 25, 1894.

ERASTUS YOUNG,
Auditor.

CROSS-EXAMINATION.

By Mr. Webster:

Q. Mr. Young, your answer to the question of the gross earnings of 1892 and 1893, is simply presented in the form of a tabulated statement, prepared by you, is it not?

A. Yes, sir.

Q. Have you any such tabulated statement during the same years and same months showing the earnings on the lines of the Union Pacific in the State of Nebraska as distinct from the earnings on The Union Pacific System?

A. I have no such statement at present.

A. D. SCHERMERHORN, sworn, testifies in behalf of complainants, as follows, viz:

DIRECT EXAMINATION

By Mr. Woolworth:

Q. State your name and occupation?

A. A. D. Schermerhorn; division engineer of the Nebraska division of the Union Pacific.

Q. Will you state the length of the road from the east line of the state to the west line of the state?

A. 472.38 miles.

Q. Is any part of that line in Colorado, if so, how much?

A. Yes, sir; there is 8.89 miles of the road in Colorado.

Q. That is where the road crosses one corner of Colorado near Julesburg, is it not?

A. Yes, sir.

Q. What point did you take as the initial point of the road on the east?

A. The point on the Missouri River bridge that is the boundary line between Iowa and Nebraska.

Q. Is there any main line running from a point west of the depot grounds to the lower level?

A. Yes, sir; that was the location of the original main line?

Q. How far north is the initial point of that original main line?

A. 3.95 miles from the junction with the line built from Council Bluffs.

Q. Which latter line crosses the bridge, does it not?

A. Yes, sir.

Q. What revenue does the railroad company get for leases of any part of its terminal grounds in Omaha?

A. Most of the leases are at a nominal consideration of $5.00 per year; there are a few leases in Omaha where the consideration is greater.

Q. Can you enumerate those that are greater, state the amount the leases call for?

A. I can give a few of them. The Omaha & Grant Smelting and Refining Company have a lease for which they pay a consideration of about $2,500.00 per year. The American Water Works Company have a lease for a site of a reservoir for which they pay $300.00 per year; there is some ground leased to John P. Thomas, for a brick yard near Twenty-fourth street, for a consideration of $300.00 per year, and another piece near Twenty-fourth street, in which the consideration varies in periods of five years from $325.00 yer year to $1,300.00 per year, doubling itself every five years, or increasing $325.00 every five years.

Q. What do you mean to say that is now, per year?

A. At the present time?

Q. Yes, sir.

A. The lease was made in 1884, at a consideration of $325.00 for the first five years, the second five years the consideration is $650.00, that would be $650.00 now. There is one other lease to Dewey & Stone for a warehouse, for which the consideration is $600.00.

Q. That warehouse is a wooden building, is it not?

A. Yes, sir.

Q. And belongs to Dewey & Stone?

A. Yes, sir.

Q. These are all the leases that draw more than $5.00 a year, are they not?

A. They are all I recall now; no, we have one or two leases in the north part of the city, on Nicholas street, of lots at $150.00 per year per lot. I think there are two or three leases there, and one lumber company, C. L. Chaffee, pays $30.00 per year.

Q. There is one of these brick yards that you speak of on what is known as the Sheeley tract?

A. Yes, sir.

Q. What occasion has the railway company for the use of that land for terminals?

A. Well, it is a piece of ground that the company could use at present at a very great advantage if it were graded and put into condition necessary to lay tracks on it; it lies in a part of the yard where we need facilities that are located in other places where they are not convenient.

Q. Why does not the company put that in condition for use?

A. I suppose probably on account of the expense of grading the ground and providing the facilities there which are needed.

Q. Have you read the testimony of Mr. Bogue, in

which he gives a list of the buildings on the terminals grounds in Omaha?

A. Yes, sir.

Q. Are you acquainted with those buildings?

A. Yes, sir.

Q. How particular is your knowledge of them?

A. I have been over all the terminals grounds in Omaha a great many times, and through all the buildings on the terminal grounds.

Q. What do you say as to the correctness and as to the incorrectness of his list of those buildings?

A. I compared the list very carefully with the last surveys, which we have of the Omaha yards or rather the notes of those surveys, and I find all the buildings which Mr. Bogue enumerates to be on the ground, and I found some which are not in Mr. Bogue's list.

Q. I wish to call your attention to the bridges between Julesburg and the west lines of the state, and ask you to state how much bridging there is there?

A. Between Julesburg and the state line between Nebraska and Wyoming there are about 130 bridges that aggregate in length nearly 5,000 feet; they vary from 8 feet to over 300 feet in length; besides this there are between 25 and 30 stone culverts.

Q. Will you state how many miles of siding there are on the road in this state?

A. About 197 miles.

Q. Do you know Mr. Appleton, who was at one time in the service of the company?

A. Yes, sir, I knew him quite well.

Q. How long was he in the service of the company?

A. I think about two years.

Q. During what period of time?

A. 1889 and 1890.

Q. In what capacity?

A. He was in charge of the buildings on The Union Pacific System—engineer in charge of the buildings.

CROSS-EXAMINATION.

By Mr. Webster:

Q. In making up the mileage of the Union Pacific main line in Nebraska, you included, did you not, the 3.95 miles which extends northward from the main line towards what is now the shop grounds?

A. That is included in our reports, I did not include it in that 472.38 miles that I gave.

Q. In what reports is it included?

A. I think it is in all the reports which the company makes of its mileage in the state.

Q. Have you ever seen its report made to the State Board of Transportation to the effect that it has 467 and a fraction miles in the state instead of 472.38 miles.

A. No, sir; I do not think I have; I think that is the correct mileage, to include that 3.95 miles, that 467 miles.

Q. In your estimate do you mean to exclude that 3.95 miles?

A. No, sir; I would not have any right to exclude that.

Q. You include it, do you?

A. It should be included; I do not think I included that in the way I stated the length of the line.

Q. You mean when you stated the line to be 472.38 miles that this 3.95 was not included in that?

A. No, sir; that was not included in that; I will explain that to you, if you want.

Q. That fact is all I want. How does it come then that when your company makes its reports of the mileage including the 3.95 miles, that its reports should be but 467 miles, or five miles short of that which you gave?

A. That comes in this way: Out of that 472.38 miles should be deducted the 8.89 miles of track in Colorado, and to that we add this 3.95 miles from the Twentieth street junction to the old initial point, and the total then is 467.47 miles in the state; that 3.95 miles is the original main track of the road.

Q. Well, that 3.95 miles as now used is simply a line that runs off from your present main line and runs down into the yards of the company where your shops are located, and where are located all these buildings about which you have just testified?

A. Yes, sir, and beyond that, it runs north of the shops.

Q. Do the elevator companies that stand on the right-of-way of the road near the station in Omaha pay any rental?

A. Yes, sir, they do; I think they pay about $100.00 a year.

Q. Do you mean that one large elevator in which the Union Pacific has an interest of $81,000.00 only pays $100.00 a year rental?

A. I think it does, the Omaha Elevator Company pays to to Union Pacific a rental for the use of the grounds, and I presume the building also.

Q. Well, do you understand the railway company owns that building?

A. It was built by the railway company; I was here at the time it was built.

Q. And your understanding is the Omaha company leased it to the Omaha Elevator Company?

A. Yes, sir.

Q. Do you know how much that elevator building cost?

A. No, sir.

Q. It cost a great deal of money, did it not?

A. It would not cost a very small amount.

Q. Well, how much do you think it cost?

A. Well, I would not like to say, because I am not familiar with what that kind of a building would cost?

Q. Well, you understand, do you not, that the Union Pacific Company has $81,000.00 invested in it?

A. I do not know anything of that, except as I read it in Mr. Bogue's testimony.

Q. Well, you have been verifying the correctness of

Mr. Bogue on other things, what do you say as to that feature of it?

A. I did not verify Bogue's statement as to the cost of anything at all.

Q. So you do not know, then, whether Mr. Bogue is right about that or not?

A. No, sir.

Q. Well, you don't imagine, do you, that building could be constructed for $100,000.00?

A. I do not think it ought to cost much more than that, if it cost that much.

Q. Your notion is the company gets $100 per year for that building and the ground upon which it stands?

A. I think that is the consideration in their lease.

Q. And you understand, do you not, that The Union Pacific Railway Company owns a good share of the stock of the Omaha Elevator Company?

A. I have understood that.

Q. Now, a moment about the bridging west of Julesburg; if I understood you to answer there were 130 bridges varying from eight to three hundred feet in length, why did you answer in that way, that these 130 bridges vary from eight to three hundred feet in length?

A. I do not know exactly why I did; I looked through my list of these bridges pretty carefully, and I thought probably that would be right.

Q. You know there are no living streams of water there

that are crossed by any bridges, do you not, except one small creek?

A. Well, yes; I know that.

Q. So that what you call bridges are bridges or trestle work constructed over dry land?

A. Yes, sir.

Q. Well, where is this one that may be 300 feet in length?

A. It is a short distance west of Potter.

Q. What stream of water runs under that bridge, if any?

A. Lodge Pole Creek.

Q. That is the only live creek these is on that division?

A. Yes, sir; it crosses that creek three times between Julesburg and the state line.

Q. So by your answer you mean there was one bridge that was 300 feet long, but only one.

A. I think that was the only bridge on that line, yes, sir.

Q. Most of these bridges that are included in your statement, are but mere short structures over a little narrow ravine through which water may run in storms or froshets?

A. Yes, sir; I gave the aggregate length I think.

JAMES G. TAYLOR, re-called in behalf of the complainants.

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Mr. Taylor, can you state, and if you can, will you

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do so, the gross earnings for the last six months of the years 1892 and 1893 by months for freight and passenger and miscellaneous separately?

A. I can.

Q. Will you do so?

A. I can, and these are the figures submitted: (See page 1221.)

CROSS-EXAMINATION.

By Mr. Webster:

Q. What mileage of road is included in this statement?

A. Now, I cannot tell without looking at our statements down there because we were constructing a little, and it varied a little every month, it is practically all the road west of the Missouri River, I suppose that will satisfy you.

Q. By your answer, you mean all the part of the Chicago, Burlington & Quincy System line west of the Missouri River?

A. Yes, sir.

Q. It includes, therefore, lines not within the State of Nebraska?

A. It includes everything west of the Missouri River.

Q. Some of which lines extend into Dakota, Wyoming, Colorado and Kansas.

Yes, sir.

D. S. GUILD, sworn in behalf of the complainants, testifies as follows, viz:

2758

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BURLINGTON AND MISSOURI RIVER RAILROAD IN NEBRASKA.

Statement of Gross Earnings for last six months of 1892 and 1893.

MONTH	FREIGHT		PASSENGER		MISCELLANEOUS	
	1892	1893	1892	1893	1892	1893
July	$648,352.09	$464,983.70	$268,431.63	$278,507.17	$74,323.41	$73,357.93
August....	763,974.76	462,159.92	284,915.93	254,332.60	74,126.70	71,097.04
September.	873,747.21	590,164.12	386,972.05	274,418.65	77,491.63	69,087.91
October...	940,400.07	693,992.48	275,526.25	279,767.00	76,430.80	76,783.00
November.	814,829.93	565,954.81	219,309.43	187,335.10	73,777.01	73,518.97
December.	819,012.71	549,706.48	237,331.79	166,881.31	76,118.87	74,533.30
	$4,860,316.77	$3,326,961.51	$1,672,487.08	$1,441,241.83	$452,268.42	$438,378.65

BURLINGTON & MISSOURI RIVER
RAILROAD IN NEBRASKA.
Auditor's Office,
May 2, 1894.

SUMMARY

	1892	1893
Freight	$4,860,316.77	$3,326,961.51
Passenger	1,672,487.08	1,441,241.83
Miscellaneous	452,268.42	438,378.65
	$6,985,072.27	$5,206,581.99

1542

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name and occupation?

A. D. S. Guild, supply agent for the Burlington lines west of the Missouri.

Q. How long have you been supply agent for that road?

A. Three years.

Q. Can you state what supplies the company had on hand on the 28th of February last and on the 29th of March last?

A. I can.

Q. Won't you state what they are particularly?

A. On February 28, all the material on the road not in use in either track, or rolling stock or buildings, including fuel, was $760,987, and on March 29th, $692,120.

Q. In addition to that, did you have any other track material and such like on hand, or was that included in the figures you have given?

A. That was included.

Q. That is about the average of the supplies the company carries, is it not?

A. No; it is about twenty-five per cent. less. Take the nominal condition of business, and the supplies on hand and they would be increased probably twenty-five per cent.

Q. That is in consequence of the depressed condition of business the stock is reduced?

A. The stock is correspondingly reduced.

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CROSS-EXAMINATION.

By Mr. Webster:

Q. That is your supplies for that part of the Chicago, Burlington & Quincy System west of the Missouri River?

A. Yes, sir.

Q. Can you give the mileage readily west of the Missouri River?

A. I think it would be in the neighborhood of 3,300 miles.

DAVID HAWKSWORK, sworn, testifies in behalf of the complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name and occupation?

A. David Hawkswork, superintendent of motive power on the B. & M. in Nebraska.

Q. How long have you held that position?

A. Well, I have held that position about five years, though I was master mechanic on the line before that position was created. I have been with the company on this side of the river about eighteen years.

Q. Where has the company shops?

A. Well, we have shops at Plattsmouth, Havelock, and Lincoln, and Wymore, that is I mean where they do considerable work and have tools, lathes and planers.

Q. What is the value of the machinery in these shops; I will put that in the shops of the company in this state?

A. The total is $357,957.00, that is the total of the machinery in these shops.

Q. How many engines does the system employ in its business in this state?

A. About 225.

Q. Do you have charge of the purchase of engines?

A. No, sir.

The plaintiffs offer in evidence the statement requested of Mr. Taylor on his former examination, of rolling stock purchased by the Burlington Company, stated in classes.

Said statement is marked Exhibit "11," and is attached hereto.

The plaintiffs also offer in evidence the statement of Mr. Taylor of the terminals of the Burlington Company, giving the number of acres, cost, time of purchase or acquisition, and also including tracks on such terminals at Omaha, Plattsmouth, Lincoln, Crete, Beatrice, Hastings, Columbus, Grand Island and other towns in the state where the value of such property forms a considerable item in the assets of the company, the same being a statement asked of him upon his former examination.

Said statement is marked Exhibit "12," and is hereto attached.

The following are copies of Exhibits "11" and "12":

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Exhibit "11."

(Copy.)

AUDITOR'S OFFICE BURLINGTON & MISSOURI RIVER RAILROAD IN NEBRASKA.

Rolling stock purchased, 1888 to 1893 inclusive.

LOCOMOTIVES.

2	at	$8,380.00	each.		
8	"	8,300.00	"		
20	"	10,165.00	"		
12	"	10,600.00	"		
3	"	12,500.00	"		
10	"	8,570.00	"		
10	"	9,500.00	"		
8	at	$10,450.00	each.		
8	"	11,250.00	"		
4	"	7,900.00	"		
3	"	9,800.00	"		
10	"	10,770.00	"		
10	"	11,870.00	"		

FREIGHT CARS.

1,000	box cars	at	$535.00	each.
225	stock	"	576.45	"
200	coal	"	520.00	"
47	way	"	908.05	"
750	box	"	576.75	"
75	refrigerator		867.00	"
500	coal cars	at	488.75	"

PASSENGER CARS.

10	coaches	at	$4,603.40	each.
8	chair cars	"	5,300.00	"
15	" "	"	7,650.00	"
2	dining "	"	7,339.54	"
24	coaches	"	4,950.00	"
10	chair cars	"	8,019.40	"
8	" "	"	8,500.00	"

L. J. S.

Burlington & Mo. River R. R. in Neb.
Auditor's Office, April 25, 1894.

Exhibit "12."

AUDITOR'S OFFICE, B. & M. R. R. R. IN NEBRASKA.

Statement Showing Acreage of Depot Grounds and Miles of Side Tracks at Various Points in Nebraska.

	ACRES	MILES OF SIDINGS
Omaha	120	14.5
South Omaha	83	5.5
Plattsmouth	80	8.9
Lincoln	112	34.1
Beatrice	40	2.3
Nebraska City	36	6.1
Grand Island	54	9.6
Hastings	132	9.9
Holdrege	347	3.1
McCook	307	5.3

It is impracticable to give either the time of purchase of the property as above described or the original cost of same.

J. G. TAYLOR,
Auditor B. & M. R. R. R. in Neb.

L. J. S.

Burlington & Mo. River R. R. in Neb.,
Auditor's Office, May 2, 1894.

OMAHA, Monday, May 7th, 1894, 2 o'clock P. M.

Present:

J. M. WOOLWORTH,

Solicitor for Complainants.

J. L. WEBSTER and

G. H. HASTINGS,

Solicitors for Respondents, Members of the State Board of Transportation.

Pursuant to adjournment, the further taking of testimony was resumed, as follows:

EDWIN E. WOODMAN, sworn, testifies in behalf of complainant, as follows, viz.:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, residence and occupation?

A. I am secretary of right-of-way engineer of Chicago, St. Paul, Minneapolis & Omaha Railway Company; residence St. Paul, Minnesota.

Q. How long have you held that position?

A. Ten years.

Q. Can you tell me what your terminals in Omaha cost?

A. I have set them forth here as costing $285,500, to the best of my knowledge and belief.

Q. Will you state the items?

A. Lands, $65,750; grading, $35,000; tracks, $103,650; paving, $12,850; buildings belonging wholly to our company, $51,000, and a half interest that we have in the

buildings that we own jointly with the Elkhorn Company, $17,250.

Q. Is that item of $17,250 your interest or the value of the whole building, or the cost of the whole building?

A. The part of the cost of the building which we have paid.

Q. Can you tell me what you paid for taxes in 1891, 1892 and 1893, in the State of Nebraska?

A. I think I can; I have a little memoranda of those matters in my pocket and I will refer to that. Do you want them for the year in which they were assessed; they are assessed in one year and paid in another?

Q. You may give the time when they are paid, if you can conveniently?

By Mr. Hastings: That is, Judge Woolworth wants the taxes that were assessed in the years 1891, 1892 and 1893?

By Mr. Woolworth: I asked for the taxes paid; if you can state the taxes paid, that will be better.

By Mr. Hastings: That will be in 1890, 1891 and 1892.

By the Witness: The taxes that are levied in 1890 we do not pay until the spring of 1891.

By Mr. Hastings: They would become delinquent on the first day of May, and they ordinarily pay them about that time.

A. We paid in 1891, which would be the taxes of 1890,

$46,620.00; in 1892, which would be the taxes levied in 1891, $52,371.00; the last one that I have is 1893, $58,678.00.

Q. How many miles of road have you in this state?

A. 270 odd miles, I think.

Q. Can you tell the amount of mortgages per mile?

A. The mortgages are $15,000.00 a mile to the lines in Nebraska.

Q. Can you tell when you bought your terminals?

A. I cannot, precisely; our company has inherited this property through several predecessor companies, starting back about 1871. The Webster street yard and the Farnam street line were acquired by these old companies, but the changes were so rapid that our vouchers show the amount paid for them.

Q. You acquired all of that five or more years ago, or ten or more years ago?

A. I think we acquired, the last of any consequence we acquired was in 1886.

Q. Then they were all acquired as early as 1886?

A. That is my recollection.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. Mr. Woodman, this $285,500.00 for terminals in Omaha includes lands, $65,750.00?

A. Yes, sir.

Q. Now, what goes with that land, anything else

except the bare naked land; any other expenditures for examination of title, or legal expenditures, or anything of that kind?

A. Yes, sir.

Q. How much was for the land, then, proper?

A. Well, I think $58,175.00.

Q. And the balance of that item, is made up of of what?

A. Legal expenses, and abstracts of title, and examinations and surveys, and maps and plans, and such things.

Q. Then, you have another item of grading, $35,000; was that grading here on the terminals in Omaha?

A. Yes, sir.

Q. All of that was here on the terminals here, in this city?

A. Yes, sir.

Q. Can you tell us about when that was done?

A. No, sir, I cannot; I do not know this of my own knowledge.

Q. From what source of information did you get the the items of cost of the lands and legal expenses connected therewith?

A. I get those from our office record in St. Paul.

Q. You examined the office records yourself, or did you have some of your clerks do that for you?

A. I examined them myself in part; part of this

information comes from the auditor's books, and I have to take his word for it.

Q. Where are those books at the present time?

A. In St. Paul.

Q. You did not bring any of them with you?

A. No, sir.

Q. Are these books open for inspection there, in St. Paul?

Q. Yes, sir.

Q. And, in case we desired to inspect them, whose office would we go to to inspect the same?

A. The auditor's office and my office.

Q. The auditor of the Chicago, St. Paul, Minneapolis & Omaha Railway Company?

A. Yes, sir.

Q. And how many acres of land comprises the terminals of the Chicago, St. Paul, Minneapolis & Omaha Railway Company, in the City of Omaha?

A. I am not prepared to answer that.

Q. Could you give us an approximation of the amount?

A. No, sir; I could not.

Q. Where are they mostly situated.

A. They are mostly north of our Webster street station.

Q. North of your Webster station?

A. Yes, sir.

Q. That is the Chicago, St. Paul, Minneapolis &

Omaha Railway Company own the Webster street station; are they the owners?

A. Yes, sir.

Q. Other railways are using that property for terminal facilities, are they not?

A. Yes, sir.

Q. What other railways?

A. I believe the Elkhorn; I do not know whether the Missouri Pacific does or not; their trains do come in there, but I do not know on what condition.

Q. Is it not a fact that that Webster street station and the terminal facilities adjoining on the north are used conjointly by the Chicago, St. Paul, Minneapolis & Omaha, the Missouri Pacific and the Fremont & Elkhorn Railway Companies?

A. I know as to the Elkhorn but I do not know about the Missouri Pacific; it is a matter that would not fall in my province to know.

Q. As a matter of fact, Mr. Woodman, is it not a fact that there are but two railway stations in the City of Omaha that are used as railway stations?

A. That I cannot say; I am not acquainted with that.

Q. One by the Union Pacific and the Burlington, down at the foot of Tenth street, or on Tenth street, and the other what is known as the Webster street station?

A. I am not very familiar with Omaha, and I cannot say.

Q. The other roads that are occupying the Webster

street station, if there be others, pay rent for the use of these terminal facilities, do they not?

A. I do not know as to that.

Q. You are not acquainted with the facts, whether your road is renting these facilities to other roads or not?

A. No, sir.

Q. Is it not a fact that the Chicago, St. Paul, Minneapolis & Omaha Railway Company owns the terminal facilities in Omaha, which are sufficient for the accommodation, not only of your own ro but also of the Missouri Pacific and the Fremont & Elkh n?

A. I presume they are.

Q. You know nothing concerning the arrangement or agreement made between those several companies as to the rents of the terminal facilities it may have?

A. No, sir.

Q. You have given us the original cost of the terminal facilities of the Chicago, St. Paul, Minneapolis & Omaha in this city, what would you say as to the present value?

A. I am quite ignorant of the present value.

Q. I see you have one item of laying tracks, $103,650; does that trackage include the trackage used by all of these other railway companies, or simply by yourselves?

A. I understand it to cover only those tracks where we actually own the track material.

Q. I understand; but whether they use those tracks, or whether they have tracks of their own?

A. The Elkhorn uses some of the tracks, I know.

Q. Does not the Missouri Pacific also?

A. I do not know; they are on the other side of the depot; whether that is their track, I do not know.

Q. Do you know whether the tracks on the other side of the depot, which you say are used by the Missouri Pacific, are a part of the track which you allege the cost to be $103,650?

A. No, sir; I cannot say.

Q. This item of paving of $12,850, that paving is around the Webster street depot and adjoining the freight depot?

A. The freight depot, on the north side.

Q. It is in the vicinity of the Webster street depot?

A. Yes, sir.

Q. As a matter of fact, was not that paving put in the streets of the city and paid for by the City of Omaha?

A. No, sir; those figures that I gave you here are money which we paid out on account of that paving, and we treat it in our accounts as betterment, and not as a tax.

Q. You got that from what books?

A. From the books of the auditor.

Q. All the information you have as to the payment by your company for that item of paving, is from the books of the auditor?

A. I believe I made the vouchers for that myself.

Q. This matter of paving was paid by your company, how paid as a part of your taxes?

A. As an assessment, the most part of it; I think in by

the freight house there is a part of it on the company's land, it was very muddy there, and in order that teams might get up to the building, they paved it, I think part of it is not in the street.

Q. Can you give us any approximation of the amount of paving you have done on your own premises not in the street?

A. No, sir; I could not without reference to the books.

Q. You think some of it was done on your own premises?

A. I think so, I may be mistaken.

Q. The larger portion of this $12,850.00, was paid by you by way of an assessment that was levied on your property on account of it abutting on the streets of the City of Omaha?

A. Yes, sir.

Q. Does this item of $12,850.00 also figure in the taxes for which you paid for 1891, 1892 and 1893, which you gave me?

A. No, sir.

Q. That is no part of that?

A. No, sir.

Q. You have given us an item of buildings, $51,000,00, which your company owns here in this city?

A. Yes, sir.

Q. Where are those buildings located?

A. On this terminal property north of Webster street,

the Webster street station being one of them; the round houses and freight houses.

Q. The other buildings, aside from the Webster street station, are largely wood, are they not?

A. The freight house is not wood; that is a brick building, I believe.

Q. Are you sure as to that?

A. I think so.

Q. And the other buildings?

A. Some of them are wood.

Q. Can you tell me what the buildings consist of?

A. No, sir: I cannot do that, because it is not in my way to know much about that.

Q. The Webster street station and the freight house you have named; can you name any others?

A. There is the baggage and express building.

Q. Is that separate from the station itself?

A. Yes, sir; that is a brick building also; the engineer is the person that knows most about those matters.

Q. You have put them in at $51,000.00, which was the cost to your company?

A. Yes, sir.

Q. Does that $51,000.00 represent the value or the cost?

A. The cost.

Q. That has nothing particular to do with the value, only it represents that much paid out?

A. Yes, sir.

Q. Now, you say that you had a half interest in some other property; will you indicate to me what that property consists of?

A. As far as I know that is a piece of property lying between the two tracks where the Elkhorn and "Omaha" come together; there is a round house and other little buildings thereupon.

Q. And your proportion in the expense of that was $17,250.00?

A. Of the buildings, yes sir.

Q. Was that of the buildings, or of the land and buildings combined?

A. Of the buildings; our half interest in that land, was put in above.

Q. That goes in with the $65,000.00?

A. Yes, sir.

Q. The $17,250.00 represents what?

A. The half interest in the cost of the buildings.

Q. That represents one half of the cost of the buildings?

A. Yes, sir.

Q. At what time was that money expended by your company, Mr. Woodman, that $17,250.00?

A. In the last five or six years.

Q. Not all expended at one time?

A. No, sir; from year to year.

Q. Could you give us an idea of what that $17,250.00 was paid for, that is the kind of buildings, and how many?

A. No, sir; I cannot.

Q. You state that you have 270 odd miles of road in this state?

A. Yes, sir.

Q. How many miles of road is the Chicago, St. Paul, Minneapolis & Omaha Railway operating all told outside of the state as well as in?

A. I think it is exactly 1492 miles in round numbers?

Q. Through what states does that line run?

A. Through Wisconsin, Minnesota, Iowa, Nebraska and South Dakota.

Q. Omaha is one of the principal terminal points on that entire system, is it not?

A. Yes, sir.

Q. And the terminals of the City of Omaha are sufficient for that throughout its entire system; that is, throughout the entire system?

A. It is sufficient for the business that is done here, I suppose.

Q. In the year 1890 how many miles of road was your company operating in the State of Nebraska?

A. I think 260.

Q. And in the year 1891?

A. The same.

Q. And in the year 1892?

A. The same; we built ten miles last year.

Q. That is in the year 1893?

A. Yes, sir.

Q. That accounts for the difference for the amount of taxes paid in 1893 over that of 1892, I presume?

A. Partly, and partly this, the assessments fluctuate; local assessments fluctuate; that will account for part of it.

Q. Whereabouts was that ten miles built?

A. It was the extension of the Ponca branch, from Ponca to Newcastle.

Q. Can you give us the amount of your assessment per mile for those several years?

A. $4,850.00 per mile in 1890, and $5,000.00 per mile each of the following years.

Q. Do you know on what system the property is assessed for taxation in this state, what ratio of values?

A. No, sir; I do not ; I simply know how our part of it is done, what reports we make, and the State Board of Equalization makes the assessment.

Q. You say your line is mortgaged at the present time at $15,000.00 per mile?

A. Yes, sir.

Q. That is, you mean by that, to say that the line in Nebraska has been bonded for that amount?

A. Yes, sir.

Q. And how much stock has there been issued per mile on the Nebraska line?

A. I cannot say as to that, sir.

Q. Do you know who owns the stock of the Nebraska line, whether by individuals or some company?

A. The stock is all one kind of stock, the stock of the entire road, and is owned by a great many individuals.

Q. There is not a portion of the stock that is owned by a company or organization, is there?

A. No, sir; I will correct myself there; for instance, the Northwestern road is a heavy stockholder of the "Omaha" system of roads, if that is what you mean; there is no separate organization for Nebraska with stock of its own, or anything of that kind.

Q. But the Northwestern Railway Company owns a share or a proportion of the Chicago, St. Paul, Minneapolis & Omaha?

A. Yes, sir.

Q. That is the Chicago & Northwestern Railway Company owns these bonds of $15,000.00 per mile, or are they simply guarantors of them?

A. I think neither.

Q. Do you know what rate of interest that $15,000.00 per mile of bonds in this state draws?

A. Six per cent.

Q. As a matter of fact is not the Chicago & Northwestern Railway Company the guarantor of all of that stock, and have they not issued their own stock or bonds at four per cent. for the amount of stock that has been issued by your company, is not that true?

A. I do not know as it is.

Q. Could you tell me, I think I asked you the question, but I perhaps interrupted you before you answered it,

when that mortgage was placed on the property, and how long it is to run?

A. No, sir, I cannot; I think it was placed in 1881; that is what we call our general mortgage, and all the property we ever acquire passes under it.

Q. It is a blanket over the entire system?

A. Yes, sir; all the property we ever acquire goes under it.

JOHN B. BERRY, sworn, testifies in behalf of the complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, residence and occupation?

A. John B. Berry, No. 1046 South Twenty-Ninth street, Omaha, Nebraska; chief engineer of the Fremont, Elkhorn & Missouri Valley and Sioux City & Pacific Railway Companies.

Q. How long have you been chief engineer of those companies?

A. Since the first of February, 1893.

Q. Are you acquainted with the terminal of the Fremont, Elkhorn & Missouri Valley Railroad Company in Omaha?

A. That is the terminals they use here?

Q. Yes, sir.

A. Yes, sir.

Q. Will you describe them, Mr. Berry?

A. I will have to refer to papers. Now, when we

speak of the terminals used here, we mean just the portion that is used from in the neighborhood of Douglas street north to where this engine house property is, but do not include anything at any other place, for instance, it does not include De Bolt Place. It starts from the north side of Douglas street, we have a narrow strip or right-of-way thirty-three feet in width until it joins on the main body of land in the depot grounds, and then takes the freight yard and runs north taking in both pieces of right-of-way, and the piece of the joint ground, used for the engine house, a thirty-two foot strip on the north side of Douglas street; 100 feet from the south line of Corby street to the south line of lot twenty-eight (28), in section three (3), 100 feet strip of the Elkhorn Railroad from its connection with the Omaha, to the south line of lot twenty-eight (28), in section three (3); depot grounds, from the north line of Webster street to the north line of block three hundred and seven; freight yard from the north line of block three hundred and seven, to Corby street. The engine house property is owned jointly with the "Omaha."

Q. Will you enumerate the buildings on your terminals in this city?

A. Brick passenger station, two stories, 28x78; a brick baggage building, 20x72; a brick freight house, 45x342, south end of it two stories; one wooden, freight house, 30x247; up in the north yard there is a little freight station used as an office, 16x30; on the engine house property we have a sand drying house, 20x54; an ice house, 24x60; blacksmith shop, 18x23; car repair shop, 18x24;

fifteen-stall frame engine house, bricked on inside; in addition to that we have a 60-foot iron turn-table with foundation and curb; clinker pit; stone derrick; track scales, with stone foundation; machinery and heating apparatus in the engine house.

Q. Are you acquainted with the present value of the properties which you have now enumerated?

A. Land or buildings?

Q. Both.

A. I know of the land, by inquiry, and of the buildings I have made an estimate of them, as to what it would cost to build the same thing to-day.

Q. State what inquiry you have made as to the value of the lands, and how extensive and accurate your acquaintance with the values is?

A. I made an inquiry of one party, who—

The State Board of Transportation objects to this statement; of what was reported to him, as being secondary and incompetent.

A. I inquired of one party who was very familiar with all the surroundings; he had occasion to get prices for the same facilities that we have, and I made up the estimate largely from that statement—of myself I do not know the values.

Q. You may state the values, as far as your acquaintance with them goes?

The State Board of Transportation objects for the reason that it appears from the witness that he

has no personal knowledge upon the subject he is about to testify.

A. $605,490.00.

Q. What does that cover?

A. It covers the property previously described; just the bare land.

Q. What would you say as to the values of the buildings and their contents?

A. Buildings, $67,700.00.

Q. Some of these buildings are owned by your company in connection with the Chicago, St. Paul, Minneapolis & Omaha road?

A. Yes, sir.

Q. Which buildings are those?

A. Scale house, sand house, ice house, blacksmith shop, car repair shop and the engine house.

Q. Calling your attention to the station house?

A. That is the Chicago, St. Paul, Minneapolis & Omaha Railroad Company's.

Q. That is they own the station?

A. The Webster street station.

Q. You rent from them the use of that?

A. I do not know anything about that part of it.

Q. In your opinion these estimates are reasonable and fair, are they?

A. Yes, sir.

CROSS-EXAMINATION.

By Mr. Webster:

Q. Mr. Berry, in your estimate of the values of land, you did not disclose to us, who it was that you talked with, as a basis of your answer; will you tell us who it was?

A. Mr. Potter.

Q. Mr. Potter, who represents the East Omaha Land Company?

A. Yes, sir.

Q. When did you talk with Mr. Potter?

A. Within the last three weeks.

Q. Did you go to Mr. Potter with a view of qualifying yourself to make this statement here as a witness?

A. Yes, sir.

Q. Why didn't you have Mr. Potter testify upon that subject, instead of offering here, in a secondary manner, the estimate which he had given to you?

A. My duty was to give an estimate of what the Omaha terminals would cost in the City of Omaha, and I went to work to do it; and they inquired about the cost of this land, and I went to Mr. Potter because their company had recently bought a large amount of property, and I thought he would be the best and fairest authority on what land was worth at the present time; as to whether Mr. Potter would be brought in in any other way, I know nothing about that.

A. And you know nothing about the value of these lands, only what Mr. Potter told you?

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A. No, sir.

Q. You didn't ask anybody else, except Mr. Potter, what these lands were worth?

A. No, sir.

Q. So your answer is based, then, entirely and solely upon what Mr. Potter said to you upon that subject?

A. Yes, sir.

Q. You heard the testimony of Mr. Woodman, just given?

A. Yes, sir.

Q. Have you indicated in your statement or estimate of the values of land, some of the lands included in the estimate given by Mr. Woodman?

A. That I cannot say; I know that it includes a portion if not all of what he has estimated.

Q. What you have been speaking of as the terminals of your company, are the same terminals spoken of by Mr. Woodman as the terminals of the Chicago, St. Paul, Minneapolis & Omaha Railroad?

A. Yes, sir.

Q. Well, do you understand that these terminals belong to your company, the Fremont, Elkhorn & Missouri Valley Railway Company?

A. No, sir; only a half interest in the Shoup property.

Q. Well, then, when you have been testifying as to the value of the terminals of the Elkhorn road, as a matter of fact you have been testifying to the value of the terminals

not only of your road but of your road and the Chicago, St. Paul, Minneapolis & Omaha combined?

A. I was not asked that question.

Q. I am asking you that question now?

A. Yes, sir.

Q. And when you speak of the value of the buildings, you include buildings so belonging to "Omaha road?"

A. And the Elkhorn, too.

Q. Combined; as a matter of fact your road does not own any station house in Omaha?

A. No, sir.

Q. Well, when called upon to state the buildings owned by your company you stated a brick passenger station; as a matter of fact you don't own any station house?

A. I didn't say that.

Q. Then why do you mention a brick passenger station as belonging to the terminals of the Fremont & Elkhorn road?

A. I did not say that.

Q. As a matter of fact your company does not own any express and baggage building?

A. No, sir.

Q. And your company does not own any freight house, either, does it?

A. No, sir.

Q. Now, as a matter of fact, does your company own any land here in Omaha?

A. Yes, sir.

Q. Now, what and in Omaha, is owned distinctly by your company, the Fremont, Elkhorn & Missouri Valley Railroad Company?

A. Included in this statement?

Q. Yes, sir.

A. A certain piece of the right-of-way from its junction of the Chicago, St. Paul, Minneapolis & Omaha Railway Company to the north line of the engine house property, and a half interest in the engine house property.

Q. Will you state first what is this land owned by your company?

A. A 100-foot strip of the Fremont & Elkhorn from it its connection with the Chicago, St. Paul & Minneapolis line to the south line of lot twenty-eight in section three, 2.47 acres.

Q. That is the extent of your land?

A. Mentioned in this, that is of the Elkhorn ownership.

Q. Did you ask Mr. Potter, what that 2.47 acres was worth?

A. Not that particular piece.

Q. So this statement you got from Mr. Potter was not the value of the land owned by your company, but an estimate given by him to you of the value of the land owned by your company, the Chicago, St. Paul, Minneapolis & Omaha Company, and that used by the Missouri Pacific Company also?

A. No, sir.

Q. Why do you say no, sir?

A. I asked him what he would estimate as the value of the Omaha property, giving him certain limits and specifying the land.

Q. Didn't it include land belonging to the Chicago, St. Paul, Minneapolis & Omaha road?

A. It didn't include land belonging to the Missouri Pacific.

Q. Did it include the land owned by the Chicago, St. Paul, Minneapolis & Omaha road testified to by Mr. Woodman?

A. Yes, sir.

Q. Do you know how many acres is owned by the Chicago, St. Paul, Minneapolis & Omaha line?

A. I can give it to you.

Q. Give it?

A. Outside of the lot property, 53.83 acres.

Q. Does the Elkhorn rent—.

A. Let me interrupt you, and say I qualified that statement, outside of the lot property, remember.

Q. Does the Elkhorn Company pay a rental to the Chicago, St. Paul, Minneapolis & Omaha Company for the use which the Elkhorn Company makes of the passenger depot and other buildings as well as terminal lands to the Omaha Company?

A. I do not know.

Q. The fact that the Elkhorn uses the terminals of the Omaha Company you do know?

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A. I assume they do.

Q. You suppose they pay a rental to then, do you not?

A. Yes, sir.

Q. You do not know how much that is per annum, do you?

A. No, sir.

Q. You know another fact, that the Missouri Pacific uses the same terminal lands?

A. No, sir.

Q. Don't you know they use the same depot?

A. Yes, sir.

Q. Don't you know the Missouri Pacific runs in on the track to that depot?

A. Yes, sir.

Q. Is not that track on lands included in the terminals of the Chicago, St. Paul, Minneapolis & Omaha road?

A. Yes, sir.

Q. Don't you know that land belongs to the Chicago, St. Paul, Minneapolis & Omaha land?

A. Yes, sir.

Q. Then the Missouri Pacific does use the same terminals does it not?

A. No, sir.

Q. Why do you say no sir, if it has its track on the same land, and its lands are owned by the Chicago, St. Paul, Minneapolis & Omaha road, and uses the same passenger station?

A. It does not use the engine house and its facilities or the freight house and its facilities.

Q. Did you observe that I did not ask you whether they used separate property, but whether they used those terminals of the Chicago, St. Paul, Minneapolis & Omaha road?

A. I understood it so.

Q. You know the fact that the Missouri Pacific does use the terminals of the Chicago, St Paul, Minneapolis & Omaha road?

A. Not all of the terminals, they use the passenger station.

Q. Don't they use that track that comes into the station?

A. Yes, sir.

Q. Don't they use in addition, the switches and side tracks that belong to the Chicago, St. Paul, Minneapolis & Omaha road?

A. Yes, sir.

Q. Don't they use more than the station?

A. Yes, sir.

Q. The fact is these three distinct railway companies come into the same depot, go out from the same depot and use the tracks belonging to the land of the Chicago, St. Paul, Minneapolis & Omaha line?

A. A portion of the tracks only.

Q. That same passenger depot with its tracks coming

into it and going out therefrom accommodates the three respective roads, does it not?

A. Yes, sir.

Q. The Missouri Pacific Railway Company also pays a rental to the Chicago, St. Paul, Minneapolis & Omaha for such use as it makes of this terminal property, does it not?

A. I do not know.

Q. You do not presume it has the use of these properties without rental, do you?

A. I do not know what its consideration is for coming is there.

H. J. BURT, sworn, testifies in behalf of the complainants as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, residence and occupation?

A. H. J. Burt; residence, Omaha; general manager of the Fremont, Elkhorn & Missouri Valley Railway Company.

Q. How long have you held that position?

A. About five and a half years.

Q. State the relations of your company and the Chicaga, St. Paul, Minneapolis & Omaha Railroad Company with respect to its terminals in this city?

A. The Elkhorn is a tenant of the Chicago, St. Paul, Minneapolis & Omaha Company in the joint use of the terminals at Omaha on the basis of one-half of the interest on the cost or value of the investment, one-half of the taxes

and maintenance and operation in proportion to the amount of business done by our company as compared with the whole amount of business done on the terminals.

Q. Do you know what the interest and rights of the Missouri Pacific are in those terminals?

A. I do not; I do not know, but my impression is they own their own tracks, I think they have one track, if I am correct, on the "Omaha" property, I think they own the track themselves, but I would not be certain about that now; that track is to reach the platform of the Omaha passenger depot; I am not certain about that, but that is my impression.

Q. Do you know what the interest of the Missouri Pacific is, in the station house?

A. It has no interest in the station; it is not a part owner. I think it pays some rent, I don't know how much, but not very much.

Q. Do you know anything about the value of the land occupied by the terminals, or adjoining the terminals?

A. Well, not an extensive knowledge, we have been trying to make some trades in the vicinity there, up in the vicinity of the Smiley tract, that low piece of land in the vicinity of the engine house; we have had values placed on that, that is about the extent of my own personal knowledge.

Q. Have you made an offer for it?

A. It was offered to us, and we were unable to agree on the price, so the matter was allowed to drop.

Q. What was the offer to you?

Objected to by the State Board of Transportation as incompetent and secondary.

A. My recollection was it was some six months ago, they offered us the land at $3,000 an acre, that was the land in that vicinity.

CROSS-EXAMINATION.

By Mr. Webster:

Q. Mr. Burt, what is the amount of the annual rental that the Elkhorn pays to the Chicago, St. Paul, Minneapolis & Omaha for the use of the terminals, that is for the use of the Omaha terminals?

A. I could not tell you in gross without looking at the books. We pay one-half the interest account on the investment and one-half of the interest account on the basis of five per cent. and one-half of the taxes and our proportion of the operating expenses and maintenance on the basis of the amount of business done by our company as compared with the business of the "Omaha" Company. I think I am safe to say, without looking at the figures, that the Elkhorn, judging by the amount it pays for the station, the taxes and interest, has a larger investment than the Omaha Company, I think it does more business here than the Omaha Company, and I think in that way it pays a larger share of the operating account.

Q. Whatever it may be, in the gross amount, you do not know?

A. I could not give the figures without referring to the books which are kept for the year, which are kept at

St. Paul. I signed the vouchers of course for this amount, but it has not been compiled in a yearly statement, but it may be had very quickly by reference to the auditor.

ARTHUR S. POTTER, sworn, testifies in behalf of the complainants as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. State your name, residence and occupation?

A. Arthur S. Potter, Omaha, Nebraska; capitalist.

Q. Mr. Potter, are you acquainted with the value of property in the north-eastern part of the city?

A. Yes, sir.

Q. Particularly from Webster street north to and above the round house of the Fremont & Elkhorn and the Chicago, St. Paul, Minneapolis & Omaha Railroads?

A. Yes, sir.

Q. I wish you would give the values of the following pieces of property: First, a 33-foot strip from the north side of Douglas street from the west side of Fourteenth street, being 2,700 feet through the blocks, east of the Webster street passenger station, and going north 2,700 feet through the blocks, exclusive of streets. Second, a strip of land 100 feet wide from the south line of Corby street to the south line of lot 28 in fractional section 3, being 88.88 acres. Third, another strip 100 feet wide from the connection of the Elkhorn and Omaha roads to the south line of lot 28, in section 3, being 2.47 acres. Fourth, the depot lands from the north line of Webster street to the north line

of block 307, including blocks 333, 335, 321 and 320 and three lots in block 307, being a total of thirty-five lots. Fifth, the freight yard, from the north line of block 307 to Corby street, being 38.25 acres; also the engine house property of the Elkhorn Company and the Omaha Company, being 4.23 acres?

A. Well, I will tell you what I should consider this worth. This right-of-way is thirty-three feet wide, and the thirty-three feet by 132 feet is just the half of a city lot, sixty-six by 132. I consider through there the lots were $6,000.00 a piece, sixty-six-foot lot. That is a little less money than we are able to buy them for now, we have been trying for three months to secure a right-of-way through there at a reasonable price, therefore I consider the 2,700 feet worth $61,500.00. The reason I know about this is, I have been trying to secure the right-of-way, thirty-three feet wide, adjoining this, and have been getting values on it; from the point we wish to get through to about the same point, it will cost us about $100,000.00 the best we can do. Do you want the value on the balance of it?

Q. Yes, take the parcels one after another?

A. From the round house, I should call that worth $3,000.00 an acre, you figure that out as 11.35 acres, it would be $34,050.00. Now, from Nicholas street north to Locust street, which I suppose is the same as Corby from there all their right-of way, from their round house to Locust street—that is where our street railway lines run across to Courtland Beach—I consider it worth $3,000.00 an

acre. From that point south to the north line on Nicholas street I consider it worth $7,000.00 per acre; I will tell you how I make that up. For the terminal company within the last fifteen months I have purchased 100 acres lying exactly between those limits, between Locust street and Nicholas street. We paid Mr. Harbach $11,500.00 an acre, and north of that we paid prices varying—on Locust street we paid $4,500.00 an acre, but for the total 100 acres we paid $657,000.00; the deeds show on record. You will see, therefore, that it cost us an average between these limits of $6,570.00 per acre. Ours is further east, and poorer ground, it has not been filled, although very nearly adjoining this ground on the east, therefore, I put it in round numbers, $7,000.00; it is 38.25 acres, if it is figured out correctly, it is $267,750.00.

Now, I consider the ground from Nicholas street to Webster street, including their depot grounds and depot yards, where the depot is, at $6,000.00 per lot, the same as we figured for the right-of-way through this other portion, that shows here thirty-five lots—of course I know nothing about the amount of ground they have—makes a total of $210,000.00. Now, the engine house property I should put lower than that—the engine house property proper. I have under option now, and shall purchase in a few days, right in front of your round house and across Smiley's tract, property at $2,000.00 an acre. I should put your round house at $2,000.00 an acre, and from the south

of Twenty-eighth down to Locust street, I should put it at $3,000.00 an acre.

Q. What is the total that you put on that?

A. Eight thousand four hundred and sixty dollars.

CROSS-EXAMINATION.

By Mr. Webster:

Q. I make your figures $581,000.00 and odd dollars; that is based upon the measurements of land given you by Mr. John B. Berry; I mean by that the quantities you take from his statement?

A. Yes, sir; I have taken the acreage they have given me; I merely put the prices on it, per lot and per acre.

Q. Would the values that you have given on lands per acre likewise apply to the lands owned by the Union Pacific as terminal property in that part of the city?

A. Well, I would not consider the property east of this; I suppose you refer to this right-of-way down through here.

Q. I am speaking of their properties where they have their shops and buildings that run north—the grounds that lie north of the smelter or the upper yards?

A. No; I would not consider them as valuable.

Q. What would you consider the ground occupied by the Union Pacific, to the northern end of the terminals of the Union Pacific—by that I mean their lands in an entirety, as they are in that part of the city; what would you consider them worth?

A. If you will give me some limits, north and south and east and west limits?

Q. Commencing at Douglas street and extending to the northern limits of the Union Pacific yards and grounds?

A. I would like to make the division line on Nicholas street as near as possible. I should consider it worth about, well, say from Douglas street to Nicholas street, I should call it about $5,000.00 a lot, averaging 66 by 132.

Q. What would you say of their ground up north which is only open ground?

A. It is not nearly as good ground, and above that it is acres too.

Q. Commencing at the north end and coming down where it is simply acre land?

A. Well, as near as I can tell now about it, it is in the vicinity of Grace street, there is a good deal that is low ground, I think to Nicholas street, it is away over to Eighth street, where the streets are not open, and where there is nothing developed at all; I would consider that not to exceed $4,000.00 an acre.

Q. In short then, those lands are not as valuable, in your opinion, as the lands used by these other roads, to wit: the Fremont, Elkhorn & Missouri Valley and the Chicago, St. Paul, Minneapolis & Omaha as terminal property.

A. No, sir; for the reason that as far as Fifteenth street they are all in the city and all improved, and they are valuable for that reason; I mean to say, if the rails were

not on there already, they are already to put rails on there.

Q. You speak of them, of the Chicago, St. Paul, Minneapolis & Omaha and the Fremont & Elkhorn as being that much more valuable on account of their location?

A. Yes, sir; that is what I mean.

RE-EXAMINATION.

By Mr. Woolworth.

Q. Mr. Potter, Mr. Webster gave us his figures of the aggregate value of this property as $581,710; I wish you would check that over and see if he is right?

A. I take this acreage for granted: the total figures $581,760.

JOHN B. BERRY, recalled by complainants.

By Mr. Woolworth:

Q. What do you say as to the correctness of the acreage when you were on the stand a little while ago; what do you say as to its being correct?

A. It is correct.

Adjourned until Wednesday, May 9th, at 2 o'clock P. M.

R. W. DAY, a witness on behalf of plaintiffs, being first duly cautioned and sworn, was examined in chief by J. M. Woolworth, solicitor for plaintiffs, and deposes and says, as follows:

DIRECT EXAMINATION.

Q. What is your name?

A. R. W. Day.

Q. What is your occupation?

A. Civil engineer.

Q. Have you any connection with the Chicago, Rock Island & Pacific Railway Company?

A. I am engineer in charge of lines west of Missouri River.

Q. How long have you been in the service of that company in that capacity?

A. About six years; ever since they started there.

Q. When did the company build its line from South Omaha to Lincoln?

A. That was in the summer and winter of 1890.

Q. When did it build the addition from Lincoln to Jansen?

A. In the fall and winter of 1892.

Q. What is the length of these two reaches of road?

A. One hundred and four (104) miles.

Q. That is the aggregate?

A. Aggregate from South Omaha to the connection with the old line near Jansen.

Q. Can you state the length of each separately?

A. The old line, the one that was built in 1890, is fifty-four miles.

Mr. Hastings: That means from South Omaha to Lincoln?

A. Yes, sir; and then from Lincoln to Jansen is fifty miles.

Q. I believe I did not ask you when the road was built from Lincoln to Jansen?

A. In the fall and winter of 1882.

Q. What had you to do with the construction of these two reaches of road?

A. I had charge of the construction in general under the general direction of Vice President Mr. Parker. I was the engineer on the ground in charge of the work.

Q. Do you know what the construction of the road cost?

A. I do.

Q. Have you made a tabulated statement showing the cost of the road with the different items of grading, bridging, etc., etc.?

A. I have.

Q. Look at the paper I now show you and state, if you will, what is meant by the Nebraska extension?

A. Nebraska extension is the line from South Omaha to Lincoln.

Q. And what is meant by the term "addition"?

A. That is the line from Lincoln to Jansen.

Q. State the cost of the two reaches of road, together with the cost per mile. You may, if you please, present that statement as your answer to that question?

A. This sheet will show for itself the cost: (See page 1263.)

Q. Have you stated the cost of terminals for the road?

A. Not separately from right-of-way.

Q. What you have expended then on terminals is included in right-of way, as I understand you?

A. Yes, sir.

Cost of Construction of Nebraska Extension and of Addition to Nebraska Extension, exclusive of Right-of-Way.

	Nebraska Extension	Addition	Totals	Per Mile
Grading	$320,250.48	$262,992.68	$583,243.16	$5,608.10
Bridging	159,900.04	96,165.50	256,065.54	2,462.17
Iron Pipe	11,527.45	11,888.87	23,416.32	225.16
Rails	209,263.31	175,179.84	384,443.15	3,696.57
Ties	95,947.80	95,351.00	191,298.80	1,839.41
Roadway and Track	135,883.17	104,275.97	240,159.14	2,309.22
Fences, Crossings, etc.	17,773.41	16,087.74	33,861.15	325.59
Water Service	1,576.91	1,755.04	3,331.95	32.04
Buildings and Fixtures	21,229.44	34,142.50	55,371.94	532.42
Eng. and Contingent	17,806.75	14,414.04	32,220.79	309.81
	$991,158.76	$812,253.18	$1,803,411 94	$17,340.49
Right-of-way	532,281.78	446,526.77	978,808.55	9,411.62
Unaccrued charges	6,500.00	50,000.00	56,500.00	543.27
	$1,429,940.54	$1,308,779.95	$2,738,720.49	$27,295.38

Q. What is included in the item for terminals at Omaha?

A. Omaha proper?

Q. Yes, sir.

A. Omaha proper property cost $196,000. Could not without looking it up give all the items in exact dollars but it is $196,000 and a few odd cents.

Q. That item is included in the right-of-way?

A. Yes, sir.

Q. What is the character of the property covered by this expenditure?

A. That is property on Sixteenh street near the Union Pacific tracks, just on the north side of the Union Pacific at Sixteenth street.

Q. Is that used now by the company as terminals.

A. It is not. There was a long lease on it and we were unable to get rid of it.

Q. Do you include in that item—what terminal do you actually use in Omaha now?

A. We use the terminals of The Union Pacific Railway Company for which we pay a rent.

Q. How much is that per annum?

A. I cannot tell you.

Q. Have you included that item in the right-of-way?

A. No, sir.

Q. Will you explain how that item ought to be included in the item of terminals or right-of-way covering the item of terminals?

A. Why the rent that we pay The Union Pacific Railway Company ought to be capitalized to give a true and faithful cost of the right-of-way because the road without terminals in Omaha would be no better than nothing, but nothing of that kind is included in my statement.

Q. I see, you speak of an item entitled "unaccrued charges," will you explain what is covered by that item?

A. There are still several pieces of right-of-way in litigation, and I have estimated that it will cost $12,500 to close up those items of litigation for right-of-way. Then we are under contract with The Union Pacific Railway Company to put in within five years from the date the road was constructed, and that time will be up next year, masonry where we cross over them near Gates; we are also under contract with the Burlington & Missouri, and with the Union Pacific and with the Missouri Pacific to put in iron bridges and masonry where we cross over their lines between Lincoln

and Jansen. There are two streams, the Blue River and Turkey Creek near DeWitt which it is our intention to renew this year with iron bridges and masonry. And these charges are included in these "unaccrued charges," $12,500 for right-of-way still in litigation, $4,000 for masonry at Gates and $40,000 for masonry and iron bridges at four railway crossings and two streams between Lincoln and Jansen, making of "Unaccrued Charges" $56,500, which is properly a part of the construction cost of that line.

CROSS-EXAMINATION.

By George H. Hastings:

Q. Mr. Day who made this tabulated statement?

A. Actually wrote it?

Q. Who compiled it?

A. I did myself.

Q. And when did you do that?

A. A great many figures on the Nebraska extension were got out some twelve months ago. After we finish a piece of road we get out these statements.

Q. And from what did you compile it?

A. The vouchers that are paid for the cost of the construction which are all certified to in my office, and they were got from the records in my office.

Q. Who certifies to the vouchers that are paid in your office?

A. I certify to them and then they are audited and they are approved.

Q. And then they are made into a record and that record is now in your office?

A. Yes, sir.

Q. And from that record you compiled this statement?

A. Yes, sir.

Q. Are those statements accessible at all times by you?

A. Yes, sir.

Q. Are they here in this city?

A. No, sir.

Q. Where are they?

A. In Topeka; in Topeka is my office.

Q. And they are accessible to you at Topeka?

A. Yes, sir.

Q. You did not bring these with you?

A. No, sir.

Q. Now, I discover from your testimony that among the items that have been charged as "unaccrued charges" are the building of certain bridges, crossings, etc., over other lines of road, those improvements that you have charged in here have not yet been made?

A. No, sir.

Q. Deducting, Mr. Day, from the staetment that you have made those items that you have charged in but which have not been expended, how much difference per mile of the Nebraska extension would that make?

A. I think it shows on that tabulated list, $543.

Q. Now, you speak of the item of $196,000 for properties owned by the Rock Island Company at Sixteenth

street in the City of Omaha, is that property used by the Rock Island Company at the present time?

A. No, sir; when we bought the property, as I explained before, there was a long lease on it and we were unable to get rid of the lease and were unable to utilize it.

Q. And that has never been used by the Rock Island Company as a terminal for its line of road?

A. No, sir.

Q. And it is at the present time uncertain when it will be used, I suppose?

A. I cannot say.

Q. Now, how many miles of road, all told, is there in the Rock Island system?

A. About 3,700 miles.

Q. And this item of $196,000 for terminals in the City of Omaha proper was charged for the purpose of furnishing terminal facilities for the entire system of the Rock Island road?

A. No, sir. It was more particularly for the terminals of the Western division.

Q. But it is for their entire system?

A. Well, their terminals for the Eastern division are in Council Bluffs and those in Omaha would be used for the terminals of the Western division.

Q. But for your entire system as well if there was occasion to use?

A. Yes, but then we should include the Council Bluffs

terminals, we should include the Council Bluffs terminals in this addition.

Q. As a matter of fact then these facilities, costing $196,000 that you have charged in here against the Nebraska extension, as it is termed, was intended and is intended to furnish facilities for the road in its entire system as well as for this line?

A. Yes, sir.

Q. Well now, in making a computation of the cost of a railway, ought not, in justice the terminal facilities owned by the entire system to be apportioned to the entire line?

A. Yes, sir, and if I had done that in this case the cost of the railway would be $35,000 per mile, We have no shops in Nebraska, then in estimating the cost of the Nebraska extension a proportion of the cost of our shops and machinery at Horton, Kansas, which cost about $600,000, should be charged up, a proportion of the terminals at Kansas City, which cost us a million and a quarter; should be charged up, and so on all over the line.

Q. Now, a considerable amount of this $9,411.62 per mile was occasioned by the terminal facilities owned by your company in South Omaha?

A. South Omaha; yes.

Q. Can you give me the figures, Mr. Day, of the expenses to your company of the terminals which it owns at South Omaha?

A. About $115,000.

Q. Will you tell me, Mr. Day, how much land that

represents by the acre, block or however you desire to state it?

A. Some of it is in blocks, most of it is. I can tell within—I think there must be about twenty-two or twenty-three acres.

Q. Now when was that property or land acquired by the Rock Island Company?

A. It was bought in June and July, 1890, to the best of my recollection just before we commenced the construction, in fact I know it was.

Q. And it was bought for the purpose of furnishing facilities for the Rock Island road?

A. Yes, for that portion of the Rock Island road.

Q. This amount of real estate that you own on Sixteenth street in Omaha and never used or occupied, if apportioned to the mile would make about $1,800, in that immediate neighborhood?

A. Yes, sir.

Q. Now, as a matter of fact the Rock Island owns no line from Council Bluffs to South Omaha?

A. No, sir; we use the Union Pacific.

Q. And use their terminal facilities in the City of Omaha?

A. Yes, sir.

Q. And it is provided for by your lease, I presume?

A. Yes, sir.

Q. Which has some years yet to run?

A. Yes, sir; 992 years about.

Q. Now the item of grading $5,608.10 per mile, how much per yard have you reckoned that?

A. It was at different prices.

Q. What did your grading cost you per mile, per yard?

A. It was from 12c to 17c, the cheapest was 12; that is along the Platte Valley that we paid 12c for; and the most expensive was near South Omaha, where we had to haul it some distance, that we paid 18c for.

Q. On account of the long distance you had to remove the earth?

A. Yes, sir; it would average 15½ cents per yard.

Q. And now as that roadbed from South Omaha to Lincoln runs through a hilly and rather rough country, the grades were expensive, were they not?

A. Well, it is a little heavier than the average, not a very great deal, it is heavier work than the Union Pacific, but it is not any heavier than the B. & M. is from Omaha out.

Q. It is a hilly and rough country?

A. Yes, sir.

Q. It follows no stream?

A. No, sir.

Q. It runs from South Omaha right through the hills?

A. Yes, sir.

Q. And so continues until it gets to Lincoln with the exception of a little ways along the Platte Valley?

A. Yes, sir, and then a little way outside of Lincoln for three or four miles.

Q. You built a long bridgeway for the road over the Platte River, did you not?

A. Yes, sir.

Q. And that is included in the cost of the construction of the road, of course?

A. That is in the item bridges.

Q. And the Platte River is a wide and difficult stream to bridge, having quick sand, etc.?

A. Oh, well, it is not particularly difficult outside the length of the bridge; nothing else difficult about it.

Q. Do you remember the cost of the Platte River bridge built by your company?

A. In the neighborhood of $37,000, that is not including rails, taking the bridge proper.

Q. Now your road crosses the Blue River near De Witt in Saline County, can you give the cost of the bridge on that stream?

A. That is not a big bridge, it does not cost to exceed $1,200. It is a wooden bridge, what we call false work bridge for the purpose of putting in an iron bridge afterwards.

Q. In that particular vicinity you cross also the stream known as the Turkey stream in the immediate vicinity of De Witt, is that a temporary bridge?

A. The same, a false work.

Q. And those bridges that I have named are the principal bridges on your line between South Omaha and Jansen?

A. No, the biggest bridge is near what we call Gates, near Papillion, where we cross the Papillion Creek, that is

just east of old man Gates' residence about five miles south of South Omaha. That is the biggest bridge, I think.

Q. Can you give me the cost of that?

A. That was about the same as the Platte River bridge cost, about the same.

Q. $35,000 or $40,000?

A. Yes, sir.

Q. Now this false work that you speak of—by the way, is this bridge temporary or permanent?

A. Yes, sir, over the Papillion.

Q. Now, this false work that you have spoken of over the Turkey Creek and Blue River somewhere in the vicinity of De Witt, that you have charged into the cost of construction?

A. Yes, sir.

Q. And also the permanent improvement that you intended to make there?

A. Yes, sir.

Q. Now tell me, Mr. Day, the amount that you paid when you constructed your line from South Omaha to Lincoln of from Lincoln to Jansen, for the right-of-way proper excluding the terminals both at South Omaha and Lincoln?

A. Excluding Omaha, South Omaha and Lincoln?

Q. Yes, sir.

A. At South Omaha—you have to have right-of-way at South Omaha anyway. We have no more land at South Omaha than we actually occupy, very little land at South Omaha that we are not using. We have got our yard there,

six or seven tracks, that occupies pretty near all our land there.

Q. You may include that excluding Omaha proper?

A. Now at Lincoln—why if we went through there we would have to have right-of-way and it is pretty hard to divide what would be at Lincoln right-of-way and what would be terminals.

Q. What I want to get is terminals by itself and right-of-way by itself.

A. Unless I went into it a great deal further it would be quite a guess to say what would be right-of-way and what would be terminals at Lincoln.

Q. Will you give me the cost of the terminals then in the City of South Omaha or real estate there?

A. The whole thing, including right-of-way and everything, about $115,000.

Q. Now at Lincoln?

A. Including the whole right-of-way from the north line of the City of Lincoln to the south line, that is a pretty big city, it was $377,000.

Q. And $196,000 in Omaha proper?

A. Yes, sir.

Q. Now, Mr. Day, you have a fine depot building, I believe, in the City of Lincoln?

A. Not as fine as the Lincoln people thought they ought to have.

Q. Can you give the quantity of land occupied by your terminals in the City of Lincoln?

A. I cannot give the terminals as separate from the right-of-way, not in close figures, but our terminals as separated from the right-of-way would be in the neighborhood of, in Lincoln, pretty close onto fifty acres. We have nothing at Lincoln that could not properly be included in right-of-way.

Q. How many miles does your line extend through the City of Lincoln?

A. Five miles, main line.

Q. And side tracks?

A. I cannot tell you.

Q. In your estimate here of the construction of the road what weight rail, steel or iron rail, does it provide for, $3,696.57 per mile?

A. That was 60-pound rail, steel.

Q. And your road is equipped with that kind of steel?

A. All except the Illinois division.

Q. I mean in the Nebraska extension?

A. Yes, all 60-pound steel.

Q. Now, one item that you have of "Engineering and Contingent," $309.81 per mile, will you give me the items that make up that item?

A. That is the salaries of the engineers and their assistants and the expenses attendant on the engineering and supervision of the work during construction.

Q. What I was trying to find out, Mr. Day, was how much of the $309.81 is a contingency?

A. You mean how much.

Q. I want the—

A. Contingent means engineering expenses and expenses contingent to engineering.

Q. Well, then, this item represents the expenses that this railway company was to in its engineering?

A. And supervision of construction,

Q. That includes both of these items?

A. Yes, sir.

Q. Does this tabulated statement, to which you have referred in your testimony in chief, contain the expenses that your company was to in adapting the road to service after its construction, such as keeping up the grade, and other items that would naturally follow the completion of a road and then putting it into service?

A. No, sir; it includes no items at all that were incurred after the road was turned over to the operating department, and in the case of the Nebraska extension, that was the first of January, 1891, and no charges were included thereafter.

Q. But this line from South Omaha to Lincoln runs through the eastern, or, more properly speaking, the southeastern portion of the State of Nebraska?

A. Yes, sir.

Q. And through a thickly-settled region of country?

A. Yes, sir; pretty nice country.

Q. That is what we think. And it is a portion of the main line of the Rock Island Company, extending from Chicago to Denver?

A. Yes, sir.

Q. It is not a branch of that road?

A. No, sir.

Q. And was built as a portion of the main line?

A. Yes, sir.

Q. Have you had, Mr. Day, any experience in the construction of railroads in the State of Nebraska west of the line of the Rock Island at Jansen?

A. I built the old line.

Q. I mean west?

A. No, sir; I have never built any line west of that point.

Q. And isn't it a fact that the building of a line of road through the territory through which you have built in the state is more expensive than the state would average at large in the constructing of a line say from the Missouri River to the Wyoming boundary?

A. You mean the present construction of a line?

Q. Yes, it would cost more money than it would through the state as an average?

A. I do not think that our line would cost any more or any less much than the original Union Pacific, I do not think our line would cost so much because the more railroads you get in there the cheaper you can build a new railroad because you get your supplies hauled up and everything of that kind, and again I think the wilder country you get in the more you got to pay for everything, and one advantage

weighs against the other. The more settled a country you build the road the dearer the right-of-way is.

Q. Your line runs in close proximity to the Burlington line, does it not, all the way from Omaha to Jansen?

A. Well, of course they do not go to Jansen.

Q. It is close by?

A. Yes, sir; in the same section of country.

Q. And your line competes with the Burlington for the business through the country which passes through?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By J. M. Woolworth:

Q. Your line from South Omaha to Lincoln runs through about the same kind of country as the Burlington & Missouri does it not?

A. Yes, sir; just about the same.

Q. The statement you have made of the cost of your road does not include equipment?

A. No, sir; it does not include equipment, and I may say further in that statement of cost there is nothing included in that statement of cost for the proportion of the general administration charges, for instance, president, secretary, vice-president, treasurer, general administration charges, there is nothing charged for that.

Q. Now about shops, you have no shops in Nebraska?

A. No, sir. No shops at all. We have a round house at Fairbury, but no shops there.

Q. How is the road in Nebraska to be served then in that respect?

A. All the work is done at Horton or Council Bluffs.

Q. If you hadn't shops at either of these places an item would be included for this reach of road?

A. Yes, sir. We would have to have shops there.

Q. Any round house at Lincoln?

A. No, sir.

Q. What is the width of your right-of-way on this reach of road from South Omaha to Jansen?

A. 100 feet generally. That is a normal width of 100 feet. I would like to make one explanation in regard to that statement of cost that in that statement of cost I only inserted the actual items that were paid through the construction department.

Q. Up to the time when the operating department took hold of it?

A. That is it. As I say again there was nothing included in it for general administration of the road. There was nothing included in there for the proportion of legal expenses of the road; there was nothing included for the proportion of injuries to persons and damages; and there was nothing included in there for proportion for the use of shops at Horton or round house at Fairbury, or round house and terminal yards at Council Bluffs; nothing was included in there for the proportion to that piece of line, for the use of the Omaha bridge. The only items included are the actual items paid by me as the head of the construction of

that piece of line. And I may say that last night while I was over at the hotel I made a calculation and it ran up the cost of that line, if all the items were taken in, in the nighborhood of $33,000, or $34,000 per mile exclusive of equipment.

Q. After a road is opened, turned over to the operating department, there is a large expeniture necessary to keep the banks, bed, etc. in shape?

A. Yes, sir; for the first year or two after a new line is finished the expense is very, very large. On the line between Omaha and Lincoln we have spent for ballast alone at least $60,000.

Q. And a good many other items of the same kind?

A. Yes, sir; I may say that our section gang on track finished eight or ten years would be about four men and a foreman, but on a new piece of track it would have to be double that. The maintenance charges are at least double for two or three years after the road is finished, and nothing of that kind is included in the statement.

RE-CROSS-EXAMINATION.

By Geo. H. Hastings:

Q. And these extra helpers that you are required to engage for the purpose of maintaining the new piece of track that you have just named, is that charged to construction?

A. No, sir.

Q. It is charged to operating expenses?

A. Operating expenses.

By Mr. Woolworth:

Q. That is different on different roads?

A. Yes, sir; I was only referring to our road.

By Mr. Hastings:

Q. Isn't that generally the case so far as you are aware in the management of railways?

A. Well, it is about evenly divided. Now I was with the Chicago & Alton and their method of keeping accounts used to be that when there was a nail driven where there was none before that went to construction account, and wherever there was a rock put where there wasn't one before that went to construction account. When I was on the St. Paul the same was their custom. I do not know what the custom of the B. & M. is. I never worked for them. On the Santa Fe their custom is the same as ours.

By Mr. Dilworth, of the State Board of Transportation:

Q. When were you connected with the St. Paul road?

A. That was in '83 and '84.

Q. And when with this other road?

A. Chicago & Alton; '84 and nearly all of '85.

Q. Do you know that there are prescribed rules and regulations for keeping the operating and construction accounts of the different railroads of the United States?

A. I do not think I have seen them. They call for certain statements but they do not prescribe how the company shall keep their own private accounts.

Q. Have you ever seen a pamphlet of what shall be included in the operating expenses of a railroad?

A. No, sir; I have not.

Q. When were the shops built at Horton?

A. In the fall of '86 and spring and summer of '87.

Q. Was that at the time when the Chicago, Kansas & Nebraska Railway was in operation under separate organization?

A. Yes, sir.

Q. Do you know how much the Chicago, Kansas & Nebraska cost per mile?

A. I know what it cost up to January 1890. I cannot remember the exact figures of course.

Q. Do you know what the Chicago, Kansas & Nebraska cost the Chicago, Rock Island & Pacific Railway Company?

A. I do not know.

Q. Do you know what they paid for it on foreclosure?

A. No, sir.

Q. Do you remember what the bonded debt of the road was?

A. I think it was $20,000—$15,000 for construction and $5,000 for equipment. That is my recollection of it.

By Mr. Woolworth:

Q. That is for the mortgage that was upon the road?

A. Yes, sir; the road to the best of my recollection up to when we turned it over to them I think that, exclusive of

equipment, cost about $22,000 per mile in Kansas and Nebraska.

Q. Wasn't that road built originally under the auspices and patronage of the Rock Island?

A. Yes sir; the Rock Island always furnished the money; whatever money was needed the Rock Island furnished.

By. Mr. Dilworth:

Q. The Chicago, Kansas & Nebraska, how many miles of it in Nebraska?

A. I cannot say exactly, about 100.

Q. About 142 miles?

A. A little over 100 miles.

Q. Do you remember the amount of municipal bonds that was voted to aid in the construction of that line?

A. I do not know.

Q. There was some?

A. I think there was.

Q. Now, then, for the line constructed in Kansas, didn't every county through which the road run subscribe for capital stock and bonds to aid in the construction of that line of road?

A. I think they did.

Q. Some counties as high as $100,000?

A. I do not know.

Q. And, then, wasn't the mortgage foreclosed on the road and machinery and the capital stock held by the different counties wiped out?

A. Yes, sir, I think so.

Q. Do I understand you to mean that the Chicago, Rock Island & Pacific Railway Company paid $22,000 a mile over and above the bonded debt on that road on the foreclosure proceedings when they bought the road in?

A. No, sir; the total was about $22,000 per mile.

Q. Then that would be $2,000 per mile more than the bonded debt on the road?

A. Yes, sir.

By Mr. Woolworth:

Q. What does this $22,000.00 per mile cover, just the road?

A. That covered the line entirely, that is, the line in Nebraska, the line in Colorado, the line in the Indian Territory, excluding terminals in Kansas City, which was paid by the Chicago, Rock Island & Pacific Railway itself and cost a million and a quarter, and excluding terminals in Denver and Pueblo which are rented from the Denver & Rio Grande and excluding the terminals in St. Joseph which were furnished by the St. Joseph & Iowa Railroad.

Q. Did it cover the equipment?

A. No, sir. That is my recollection of it. I made the statement at the time, but I know it was $22,000, very close to it. That was after everything was done.

By Mr. Dilworth:

Q. You stated that the Burlington road ran through the same class of country from Omaha to Lincoln as your line does?

A. Runs through the same section of country. We are nowhere more than four or five miles apart.

Q. Now, as a matter of fact doesn't the Burlington run right up through sections that are almost on a dead level?

A. The Burlington line from Omaha to Ashland is heavier than our line, from South Omaha to the Platte River it is heavier work, and from Ashland to Lincoln it is lighter work. I think that the total work on the Burlington & Missouri from Omaha to Lincoln and the total work on our line would not be very much different. I do not know as there would be very much difference taken right through.

MARVIN HUGHITT, being produced on behalf of the plaintiffs, and having been first duly examined, cautioned and sworn, testifies as follows:

By Mr. Woolworth:

Q. State your name and occupation?

A. My name is Marvin Hughitt; occupation, president of the Chicago & Northwestern Railway.

Q. How long have you been president of the Chicago & Northwestern Railway Company?

A. Since June 1st, 1887.

Q. Will you state the number of shares your company held by the plaintiffs on the twenty-seventh of July last, and how many shares they now hold?

A. I present a paper showing the stock standing in the stock register of the company at the times indicated in

the question, and ask that it be attached to this, my deposition, as answer to this enquiry.

Q. State whether or not you ever had, either directly or indirectly, in any way whatever, any communication with the plaintiffs, or any of them, or any person representing them, before the twenty-seventh of July last, save by the letter addressed by them to you in that month requesting you to convene a meeting of the board of directors of your company consider and take proper measures to restrain the enforcement of the act known as House Roll No. 33, or the Newberry Act, passed at the last session of the legislature of Nebraska, limiting the maximum rates to be charged by the railroads in this state for the transportation of freight therein?

A. The first communication that I received regarding this subject was the printed form signed by Oliver Ames, and dated in Boston, July 10th, 1893; that is the first communication. The next communication was dated on the twenty-fifth of July and the third communication on the twenty-sixth of July, signed by various parties, whose names, I understand, are all included in the list. Aside from this, I have had no communication with these people, or, as I understand, with parties representing these people.

Q. You had no communication with any of them before that day?

A. I did not.

Q. We will ask the examiner to attach copies of those papers to the deposition and certify that they are copies.

What action did you take in pursuance of that letter. State whether you convened a meeting of the board or took any measures in that behalf, and, if you did not do so, state the reasons therefor?

A. We took no notice of the protest; that is, to convene a meeting of the board, because there was not sufficient time to take that action; that is, between the twenty-fifth and twenty-sixth of July.

Q. State whether you, as president of your company, considered what action in your opinion was proper for your company to pursue with reference to submitting to the said act, namely, House Roll 33, known as the Newberry Act, and what conclusions you reached, and whether before the bringing of the suit entitled at the head of these interrogatories you had a definite purpose in that behalf, and what directions you gave to your subordinates?

A. The action taken by the management of the company was in the direction of obeying the schedules, as prescribed in the state statute, and the executive officers of the Fremont, Elkhorn & Missouri Valley Railroad Company were directed to take the usual and customary course to change the rates in obedience and make them conform to this legislative requirement. I would say further that in obedience to that order the schedules were printed and were ready for circulation when this proceeding was had and we were notified of this injunction.

Q. Then I understand it was the *bona fide* intention of

yourself and subordinates to obey the law until the injunction was issued?

A. It was, unqualifiedly so; but it was, nevertheless, the determination of the company to resist in the courts the reasonableness of the rates, meanwhile, operating under them under such protest as could be effectively made.

Q. You mean by that that your purpose was, after you had put the new rates in, to institute some formal proceeding to test the validfty of the act and the reasonableness of the rates?

A. It was.

Q. I believe that is all.

By Mr. W. A. Dillworth:

Q. Mr. Hughitt, you are also President of the Fremont, Elkhorn & Missouri Valley Railroad Company?

A. I am.

Q. And, also, of the Chicago, St. Paul, Minneapolis & Omaha Railway Company?

A. I am.

Q. Now, your information of the amount of stock held by the different stockholders of the Chicago & Northwestern Railway Company is derived from records, is it not?

A. The so-called stock register of the company as the certificates are submitted for transfer is the sole record of the ownership of stock; from that we get information as to who is a stockholder of the company

Q. Now, outside of what those records contain, you

have no knowledge as to whether those are stockholders in the Northwestern or not?

A. Yes, sir; it is the only record.

Q. Where is that record kept, Mr. Hughitt?

A. In the City of New York.

Q. And, of course, is not kept by you personally?

A. It is kept by the secretary of the company under the requirement of the by-laws and the transcript of that record is brought to this office once a year, where the annual meeting of the shareholders is held.

Q. And that record, probably, is only written up to date about once a year, just before your stockholders' meeting?

A. No, sir, the stock register of the company is closed four times a year, because the company pays quarterly dividends on some classes of the stock and we must close the books in order to make such payments properly. They are made four times a year.

Q. And except when the books are closed the stock may be transferred without the knowledge of the company?

A. Certainly.

Q. This letter or protest from the stockholders of the Chicago & Northwestern Railway Company was addressed to you as president of that company?

A. You have it there; I think it is addressed to the president of the Chicago & Northwestern Railway Company. (Examines it.) Yes, sir; as president of the Chicago & Northwestern Railway Company.

Q. What relation does the Chicago & Northwestern Railway Company bear to the Fremont, Elkhorn & Missouri Valley Railway Company?

A. That of owner of the stock of that corporation.

Q. The entire stock?

A. Yes, sir; except that held by certain of the directors to qualify them as such.

Q. What reason had you, as president of the Chicago & Northwestern Railway Company, for not complying with the request of those letters?

A. I thought the better way, or a good way, to test the reasonableness of the statute would be to put the rates into effect and then go into court in such manner as the counsel may direct.

Q. Then your refusal was not based on the ground that you did not intend to test the constitutionality of the law, but rather as to the manner of doing so?.

A. Yes, sir.

Q. You directed the company, you say, to prepare schedules in compliance with the terms of House Roll No. 33; what company did you mean?

A. Fremont, Elkhorn & Missouri Valley Railroad Company; Chicago, St. Paul, Minneapolis & Omaha Railway Company, and Sioux City & Pacific Railroad Company.

Q. In what capacity did you act when you directed your subordinates to prepare such schedules?

A. As president of that company, as I thought the interests of the shareholders of the Chicago & Northwestern

Railway Company required it, for they hold a majority of the Omaha stock, and all of the other stock except such as is held by certain of the directors to qualify them as such.

Q. You have personal knowlege, Mr. Hughitt, of the schedules being prepared, or was it derived from the statement of your subordinates?

A. Personal knowledge, so far as the managers stated my directions, had been complied with. I did not examine each figure of the schedules.

Q. The Chicago & Northwestern Railway Company, of itself, owns no lines of road in the State of Nebraska?

A. It does not.

Q. And the only interest it has in the State of Nebraska is by virtue of the stock of the Fremont, Elkhorn & Missouri Valley Railroad, and the Sioux City & Pacific, and the Chicago, St. Paul, Minneapolis & Omaha Companies, held by the Chicago & Northwestern Railway Company?

A. As to the last two limited only as stockholders; as to the Fremont, Elkhorn & Missouri Valley Railroad Company interested both as stockholders and bondholders, because a large part of the bonds of the Fremont, Elkhorn & Missouri Valley Railroad have been guaranteed by the Chicago & Northwestern Railway Company.

Q. The Fremont, Elkhorn & Missouri Valley Railroad Company has a separate organization from the Chicago & Northwestern Railway Company?

A. Perfectly distinct.

Q. And that applies, also, to the other roads mentioned?

A. It does.

That is all, except, I understood, copies are to be made of the letters, etc.

By Mr. Woolworth:

Q. You are President of the Elkhorn Company?

A. I am.

Q. And all the other officers of that company are officers holding corresponding offices in the Northwestern?

A. No, sir; not all; the accounting officers of the Northwestern Company—what you might term the financial officers—hold similar positions; the executive officers, general manager and general superintendent—operating officers—are distinct.

Q. The policy of the Elkhorn Company is directed from your office, just as that of the Northwestern?

A. Yes, sir, it is and by an executive committee, just as the Northwestern Company, when the board of directors is not in session, as to any matter.

Q. I understand you to say that the Northwestern owns all the stock of the Elkhorn Company?

A. Every share, except such as are held by certain directors to qualify them as such.

Q. Are the directors of the two companies the same?

A. They are not.

Q. How far do they differ?

A. Five of the seven directors of the Elkhorn Railroad Company are directors in the Northwestern Company.

Q. The whole number of directors in the Northwestern company are seven?

A. No, sir; Elkhorn are seven and five of those seven are directors in the Northwestern.

That will do.

By Mr. Hastings:

Q. You make dividends, do you not, and receive votes at the annual elections upon the basis of the register of stock to which you have referred?

A. The dividends are distributed to the stockholders on the basis of the showing when the books are closed, notice being given to the shareholders of the time when the books will be closed, so that it will be an inducement to them to come forward for registration.

Q. As to elections?

A. Same as to elections.

Q. When do these four periods transpire when the books are closed?

A. The books are closed four times for the dividends annually and they occurred in the calendar year of 1893 on June 6th, September 5th, November 27th and on March 6th, 1894, our fiscal year being from June to June. Now, for the purpose of the annual meeting they were closed twice; that makes six times the books were closed and opened during the year. They were closed April 29th, 1893, that was for the purpose of the annual meeting; then they were closed

May 5th, 1893, for the purpose of determining and paying the dividend which was declared at the meeting of the directors. So the books were really in the fiscal year closed six times.

Q. Do you resort to the transfer book in your office, or do you send down to New York for the original transfer books in distributing dividends?

A. The dividends are declared on the resolution of the executive committee, when it is in session, or by the board of directors, when it is in session; and by vote it is decided, and direction is given to the treasurer to pay the dividends, as directed by the vote, and notice of the payment of the dividend is advertised and of the closing of the books, so that the ownership of stock may be determined.

Q. Now, do you go by the book in your office in Chicago or New York?

A. The book in New York. The transcript I have here, to which I referred, is to be used in the annual meeting.

Q. In the annual meeting you go by the book here?

A. We go by the transcript of the record, the certified transcript.

By Mr. Dillworth:

Q. Mr. Hughitt, it is possible, is it not, that the stockholders shown on your books on the sixth of June, 1893, may not have been stockholders at all on the twenty-seventh of July, 1893, and you may not know personally whether they were stockholders, or not?

A. The only way we have for determining who is a stockholder is by the register, which shows the names of all stockholders.

Q. The financial offices of the different companies, I understand you, are filled by the same persons?

A. Well, there is some difference, but the general offices are. I think that answers the question.

Q. But their accounts, so far as relates to each company, are kept separate and distinct, Mr. Hughitt?

A. Entirely distinct.

Q. I believe that is all.

By Mr. Woolworth:

I do not think of anything else.

Statement of C. & N.-W. stock held by person indicated upon the company's books, July 27th, 1893.

NAMES.	SHARES.
Oliver Ames	2255
Parkinson & Burr	3636
Estate of F. M. Weld, by John Parkinson	300
Lawrence Minot	10
Thomas F. Cushing, by S. Lothrop Thorndike, Att'y	725
S. Lothrop Thorndike, for self and as trustee	55
Wm. Minot, Jr., for self and as trustee and attorney.	210
Copley Amory	205
George Smith ($516,000 in bonds, voted as *special* stock)	5160
Thomas F. Cushing (July holding cont'd in August)	725
Charles P. Gardiner (July holding cont'd in August)	200
Benjamin R. Weld and Francis M. Weld, Executors of the last will and testament of F. M. Weld, deceased	300
S. Lothrop Thorndike	55

NAMES.	SHARES.
Lee, Higginson & Co	600
George C. Lee	None
S. Lothrop Thorndike et al., trustees	412
Charles P. Gardiner	200
Mrs. Emma F. Gardiner	276
Wm. Minot, Jr., et al., trustees	697
George C. Lee, Jr., Albany, N. Y	35
W. M. Burr, Cazenovia, N. Y	100

I hereby certify to this paper as one produced by the witness, Marvin Hughitt, and referred to in his testimony and made a part thereof.

J. R. GUILLIAMS,

[Notarial Seal.] *Notary Public, Cook County, Ill.*

Statement of C. & N.-W. stock held by the same persons at the present time (April 30th, 1894).

These holdings are the same as in the foregoing list for July 27th, 1893, except that the following persons and firms now hold the stock, as follows:

NAMES.	SHARES.
Oliver Ames	1,600
Copley Amory	105
Lee, Higginson & Co	460
Parkinson & Burr	3,875
George C. Lee, Jr	20

I hereby certify to this paper as one produced by the witness, Marvin Hughitt, and referred to in his testimony and made a part thereof.

J. R. GUILLIAMS,

[Notarial Seal.] *Notary Public, Cook Co., Ill.*

(Copy.)

BOSTON, July 10, 1893.

Marvin Hughitt, Esq., President Chicago & Northwestern Railway Company, Chicago, Illinois:

SIR: The undersigned, creditors and stockholders of our company hereby call your attention to an act lately passed by the Legislature of Nebraska, attempting to fix maximum rates to be charged by railroad companies in that state for transportation of freight. The operation of that statute will be disastrous to the interests of our company. We are informed, and confidently believe, that the result will be the reduction of the earnings of the roads below the point at which their operating expenses, fixed charges, and a reasonable return to their stockholders can be realized.

We call your attention to several grave objections to this enactment:

1. The provisions of the constitution of the State of Nebraska were not observed in the proceedings in the Legislature while the bill was under consideration, by reason of the fact that the same was not read on three successive days in each of the two Houses, and the bill as voted upon by the two Houses radically differs from that signed by the Governor.

2. The bill is obnoxious to the constitutional objections that it does not provide for a judicial inquiry into the reasonableness of the charges therein provided for.

3. The charges prescribed in the act are not just and reasonable, and are unequal as between the different localities on the line of the roads.

4. That the statute discriminates between the different railroad companies in the state in such a manner that one of the great lines of railroad, the Rock Island line, is not subject to the new rates.

Other objections in the same line as those mentioned above may be urged against the validity of this legislation, but those mentioned justify us, as stockholders of the company, in insisting that the directors should take some measures effectually to protect our interests in the company against the operation of the statute.

We insist to you and the board of directors that the company shall decline to put the rates in operation, and by proper legal proceedings test the validity of the statute in the courts.

Your attention is called to the fact that the statute takes effect on the first of August next. It is therefore of the utmost importance that your board take action upon the matter of this communication at the earliest practicable moment.

OLIVER AMES.

I hereby certify that this paper is a true copy of the original produced by the witness, Marvin Hughitt, in the course of his examination and is attached as a part of his testimony.

J. R. GUILLIAMS,
[Notarial Seal.] *Notary Public, Cook Co., Ill.*

BOSTON, July 25th, 1893.

Marvin Hughitt, Esq., President of Chicago & Northwestern Railway Company.

SIR: The undersigned, creditors and stockholders of our Company, hereby call your attention to an act lately passed by the Legislature of Nebraska, attempting to fix maximum rates to be charged by railroad companies in that state for transportation of freight. The operation of that statute will be disastrous to the interests of our company. We are informed, and confidently believe, that the result will be the reduction of the earnings of the roads below the point at which their operating expenses, fixed charges, and a reasonable return to their stockholders can be realized.

We call your attention to several grave objections to this enactment:

1. The provisions of the Constitution of the State of Nebraska were not observed in the proceedings in the Legislature while the bill was under consideration, by reason of the fact that the same was not read on three successive days in each of the two Houses, and the bill as voted upon by the two Houses radically differs from that signed by the Governor.

2. The bill is obnoxious to the constitutional objections that it does not provide for a judicial inquiry into the reasonableness of the charges therein provided for.

3. The charges prescribed in the act are not just and reasonable, and are unequal as between the different localities on the line of the roads.

4. That the statute discriminates between the different railroad companies in the state in such a manner that one of the great lines of railroad, the Rock Island line, is not subject to the new rates.

Other objections in the same line as those mentioned above may be urged against the validity of this legislation, but those mentioned justify us, as stockholders of the company, in insisting that the directors should take some measures effectually to protect our interests in the company against the operation of the statute.

We insist to you and the board of directors that the company shall decline to put the rates in operation, and by proper legal proceedings test the validity of the statute in the courts.

Your attention is called to the fact that the statute takes effect on the first of August, next. It is therefore of the utmost importance that your board take action upon the matter of this communication at the earliest practicable moment.

CHARLES P. BOWDITCH, for self and others, Trustee, PARKINSON & BURR, Estate of F. M. Weld, by John Parkinson, BREWSTER, COBB & ESTABROOK, Estate of John Brewster, by A. F. Estabrook, Trustee, LAWRENCE MINOT, THOMAS F. CUSHING, by S. Lothrop Thorndike, Attorney, J. LOTHROP THORNDIKE, for self and as Trustee, CHARLES P. GARDINER, for self and as Attorney for Mrs. Emma F. Gardiner, WM. MINOT, JR., for self and as Trustee and Attorney,	2000 to 3000 shares.

I hereby certify that this paper is a true copy of the original produced by the witness, Marvin Hughitt, in the

course of his examination and is attached as a part of his testimony.

J. R. GUILLIAMS,
[Notarial Seal.] *Notary Public, Cook Co., Ill.*

JULY 26, 1893.

Mr. Marvin Hughitt, President Chicago & Northwestern Railroad Co., Chicago, Illinois:

SIR: The undersigned, creditors and stockholders of our company, hereby call your attention to an act lately passed by the Legislature of Nebraska, attempting to fix maximum rates to be charged by railroad companies in that state for transportation of freight. The operation of that statute will be disastrous to the interest of our company. We are informed, and confidently believe, that the result will be the reduction of the earnings of the roads below the point at which their operating expenses, fixed charges and a reasonable return to their stockholders can be realized.

We call your attention to several grave objections to this enactment:

1. The provisions of the Constitution of the State of Nebraska were not observed in the proceedings in the Legislature while the bill was under consideration, by reason of the fact that the same was not read on three successive days in each of the two Houses, and the bill as voted upon by the two Houses radically differs from that signed by the Governor.

2. The bill is obnoxious to the constitutional objections that it does not provide for a judicial inquiry into the reasonableness of the charges therein provided for.

3. The charges prescribed in the act are not just and reasonable, and are unequal as between the different localities on the line of the roads.

4. That the statute discriminates between the different railroad companies in the state in such a manner that one of the great lines of railroad, the Rock Island line, is not subject to the new rates.

Other objections in the same line as those mentioned above may be urged against the validity of this legislation, but those mentioned justify us, as stockholders of the company, in insisting that the directors should take some measures effectually to protect our interests in the company against the operation of the statute.

We insist to you and the board of directors that the company shall decline to put the rates in operation, and by proper legal proceedings test the validity of the statute in the courts.

Your attention is called to the fact that the statute takes effect on the first of August next. It is, therefore, of the utmost importance that your board take action upon the matter of this communication at the earliest practicable moment. COPLEY AMORY.

(Copy.)

I hereby certify that this paper is a true copy of the original produced by the witness, Marvin Hughitt, in the course of his examination, and is attached as a part of his testimony.

J. R. GUILLIAMS,
Notary Public, Cook Co., Ill.

[Notarial Seal.]

MARSHALL M. KIRKMAN, being produced on behalf of the plaintiffs and having been first duly examined, cautioned and sworn, testified as follows:

By Mr. Woolworth, on behalf of plaintiffs:

Q. State your name and occupation?

A. Comptroller and treasurer of the Fremont, Elkhorn & Missouri Valley Railroad Company.

Q. How long have you held that position?

A. Since the Northwestern acquired that road in 1884.

Q. Are you able to state, and if you are will you do so,

what sums that company paid for taxes upon its road in the State of Nebraska for the years 1890-1893, both inclusive?

A. The taxes were for 1890, $197,076.73; 1891, $200,709.27; 1892, $212,824.59; and 1893, so far as the same has come in and up to April first, $190,753.

Q. Will you state the mortgages upon the company's property, giving the names of the parties, the mortgagor and mortgagee and trustee, the date of the mortgage, the property covered by it, the amount of bonds secured by it and outstanding, the rate of interest and the times for the payment of the same?

A. Yes, I have it here. Save the mortgage trust bond, the Fremont, Elkhorn & Missouri Valley Railroad Company six per cent. consolidated mortgage by the Fremont, Elkhorn & Missouri Valley Railroad Company; trustees, DeWitt C. Blair and David P. Kimball; property covered, all the road in Nebraska and South Dakota; blanket mortgage, $18,400,000; all been issued. Date of the mortgage, July 2d, 1883; the date of maturity, October 1st, 1933. The interest on this mortgage is six per cent., payable semi-annually, April 1st and October 1st. As to $10,675,000 of this mortgage, drawing six per cent. interest, the Northwestern Company, instead of issuing it directly to the public, took the bonds and deposited them with the Union Trust Company of New York and using them as collateral, or basis, issued a like amount of its own bonds at four per cent. Now, the effect of that was to reduce the interest that the Elkhorn has to pay two per cent.; in other

words, while the bonds draw six per cent., only four per cent. is charged on its account.

Q. I would like to enquire, could the Elkhorn have negotiated its bonds at the rate of four per cent.?

A. No, sir; I haven't any idea it could, at par.

Q. That is all I want to ask, Mr. Kirkman.

By Mr. Dilworth:

Q. How many miles of road of the Elkhorn does this mortgage cover, Mr. Kirkman?

A. I could not tell without looking at my books. It covers the whole system, that is, the railroad in Nebraska and South Dakota. It does not cover the whole system as now known, that includes Wyoming.

Q. Goes to the west line of the state?

A. Yes, sir.

Q. When were these bonds issued, Mr. Kirkman?

A. They have been issued from time to time, as the company needed the money. The bonds are dated 1883.

Q. Do they commence to draw interest from that time?

A. No, sir; only as they have been sold on the market.

Q. Can you give a statement, Mr. Kirkman, showing the dates when these bonds were issued and what time they commmeced to draw interest?

A. I can.

Q. Will you prepare such a statement and file as part of your cross-examination?

A. I will.

Q. These taxes that you have mentioned as having

been paid by the Elkhorn road include taxes for all purposes?

A. Yes, the whole business; everything in Nebraska.

Q. Do you know what value the Elkhorn is assessed at now in Nebraska?

A. $4,500, that is only a belief, however; I have never investigated it.

Q. Does that $18,400,000 represent all the bonded debt of the Elkhorn Company?

A. Except a small car trust mortgage.

Q. A bond for building its equipment?

A. Yes, sir.

Q. Isn't that pretty well paid off at this time?

A. I think it does not exceed $50,000; something like that.

Q. And of this $18,400,000 the Northwestern, as I understand it, holds $10,000,000?

A. The Union Trust Company.

Q. The Northwestern is interested in it?

A. No; those bonds are deposited with the Union Trust as security for the amount of bonds we issued.

Q. And you issued a like amount?

A. A four per cent. bond.

Q. By the word "we" you mean the Chicago & Northwestern Railway Company?

A. Yes.

Q. What other interest has the Chicago & North-

western Railway Company in the Fremont, Elkhorn & Missouri Valley Railroad Company, Mr. Kirkman?

A. Well, I do not know; in what sense do you ask the question?

Q. That is, what I want to get at is the interest the Chicago & Northwestern Railway Company has in this property in Nebraska?

A. When the Northwestern acquired it in 1883 it purchased all of its capital stock, or, at least, it was purchased so that it controls all the stock.

Q. Then the Northwestern Company owns all the stock of the Fremont, Elkhorn & Missouri Valley Railroad Company?

A. It bought all there was at that time outstanding.

Q. And all the bonds of the company?

A. It had no bonds whatever, as I recollect.

Q. Do you remember what was paid by the Chicago & Northwestern Railway Company?

A. My recollection is par.

Q. How much stock was there, Mr. Kirkman?

A. Something in the neighborhood of two million of dollars.

Q. And that represented how many miles of road at that time?

A. I couldn't tell you without going to the books.

Q. I think you mentioned the date before?

A. Acquired it in May, 1884, is my recollection.

Q. This eighteen million mortgage, then, if I have

the date right, was authorized by the Fremont, Elkhorn & Missouri Valley Railroad Company before the Chicago & Northwestern Railway Company purchased all of the stock?

A. Your understanding is right.

I think that is all.

By Mr. Woolworth:

I don't think I want to ask Mr. Kirkman anything.

By Mr. Dilworth:

Q. One more question I would like to ask. The payment that was made on the capital stock, was that in cash?

A. It was.

By Mr. Hastings:

Q. This stock of the Fremont, Elkhorn & Missouri Valley Railroad Company is still owned, if I understand you correctly, by the Chicago & Northwestern Railway Company?

A. It is, or at leased owned in its interest.

By Mr. Woolworth:

Q. That is to say, it is held by trustees for the Chicago & Northwestern Railway Company, is it not?

A. Yes, sir.

Dates of Issue of Fremont, Elkhorn & Missouri Valley Railroad Consolidated 6% Bonds.

October, 1883	$ 302,000
November, 1883	133,000
December, 1883	24,000
January, 1884	88,000
February, 1884	457,000
March, 1884	93,000
April, 1884	47,000

May, 1884	$1,000
June, 1884	7,000
July, 1884	2,402,000
August, 1884	31,000
October, 1884	1,000
November, 1884	14,000
December, 1884	1,125,000
April, 1885	1,000,000
November, 1885	500,000
December, 1885	300,000
March, 1886	1,200,000
Total issue and outstanding on which F. E. & M. V. R. R. Co. pays 6% interest	$7,725,000

Issued and deposited with Union Trust Co., trustee, as collateral for bonds of C. & N.-W. Ry. Co.'s issue.

July, 1886	$ 2,000,000
August, 1886	275,000
May, 1887	1,957,000
June, 1887	1,250,000
July, 1887	1,293,000
August, 1887	1,000,000
April, 1888	278,000
June, 1888	22,000
October, 1888	710,000
November, 1888	190,000
August, 1890	463,000
October, 1890	37,000
November, 1890	512,000
December, 1890	188,000
January, 1891	100,000
February, 1891	400,000
Total issued and deposited with trustee as above stated, on which the F. E. & M. V. R. R. Co. pays 4% interest	$10,675,000

Total issued to April 1, 1894, of F. E. &. M. V. R. R. Co. Consolidated six per cent. bonds.....$18,400,000

I hereby certify to this paper as one produced by the witness Marshall M. Kirkman and referred to in his testimony and made a part thereof.

J. R. GUILLIAMS,
[Notarial Seal.] *Notary Public, Cook Co., Ill.*

LINCOLN, NEBRASKA, May 7th, 1894.

The further taking of testimony in behalf of the complainants was resumed as follows, to wit:

Present:

HON. J. M. WOOLWORTH,
Solicitor for the Complainants.
JNO. L. WEBSTER,
G. H. HASTINGS and
W. A. DILWOTH,
Solicitors for the Defendants, Members of the State Board of Transportation.

J. M. WOOLWORTH, sworn, testified in behalf of complainants, as follows, viz:

Not many days before these bills were filed I had a conversation with the attorney general with reference to his enforcing the Newberry Bill against the railroads which did not put the House Roll No. 33 into force. He stated very emphatically that if there was any railroad that did not put that bill into force he would use all the remedies, or all the measures which the law afforded to compel them to

do so, by prosecutions and all other measures, and that he should do it to the full extent of his power, and the Board could do it to the full extent of its power, and would never let up against any road that failed to put that law into force.

I advised my clients of what the attorney general had said, and received directions to lose no time to take measures to prevent his proceeding in the way he had indicated, and I want to say he expressed himself with quite as much emphasis and earnestness as I ever heard him use on any occasion, and I have heard him use strong language a great many times.

CROSS-EXAMINATION.

By Mr. Hastings:

Q. When you refer to the attorney general, you mean the attorney general of the State of Nebraska, do you?

A. Yes, sir.

Q. And that was about the time these actions were being commenced?

A. Some days before.

Q. You refer to a conversation you and I had, wherein you wanted to know if I proposed to carry out the law recently enacted by the Legislature, known as House Roll No. 33?

A. I do not remember whether I addressed the question to you or not, but the conversation arose in some such way. I presume I did ask the attorney general what he proposed to do.

Q. And after that conversation was over, you had no

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idea but what the intention on the part of myself was to enforce the law, did you?

A. I felt perfectly certain you were going to do it. I accepted what you said as gospel truth.

Q. And from my manner—

A. I didn't have the least idea there was any doubt about it.

OMAHA, NEB., Tuesday, April 10, 1894, 10 A. M.

The plaintiffs being represented by Mr. J. M. Woolworth, their solicitor, and the defendants not being present or represented by counsel, at the request of Mr. Webster, counsel for defendants, the taking of testimony is adjourned until 3 o'clock P. M. of this day.

OMAHA, NEB., Tuesday, April 10, 1894, 3 P. M.

The plaintiffs being represented by Mr. J. M. Woolworth, their solicitor, and the defendants not being present or represented by counsel, at the request of Mr. Webster, counsel for defendants, the taking of testimony is adjourned until 10 o'clock to-morrow morning.

OMAHA, NEB., Wednesday, April 11, 1894, 10 A. M.

Present:

J. M. WOOLWORTH,

Solicitor for Complainants.

JNO. L. WEBSTER,

Solicitor for Respondents.

Pursuant to adjournment, the further taking of testimony is resumed as follows, viz:

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J. M. WOOLWORTH, recalled for complainants, testified as follows, viz.:

In the latter part of June, 1893, I received a letter from Mr. Henry L. Higginson, of Boston, saying that various stockholders of the Chicago, Burlington & Quincy Railroad Company thought it wise to take up the question for themselves of the law called in these proceedings "House Roll 33," and that they had been to Russell & Putnam of that city, and wished my advice and assistance, either verbally or in writing. Soon after, I went to Boston, and after meeting Mr. Higginson, went to Russell & Putnam. These gentlemen are eminent in the profession, and have never had any connection with the Burlington Company, nor so far as I know, with any of the other companies, parties to these suits. We discussed the act pretty fully that afternoon and in several subsequent consultations. I called on Mr. Perkins, President of the Burlington Company, and explained to him several times that his company could in its own name maintain a bill in the United States Circuit Court for Nebraska, to restrain the Board of Transportation and its members from enforcing the act. He stated that he was not willing to take the responsibility of disregarding the act, or of taking any proceedings to restrain its execution on account of the severe penalties to which his company would be exposed if such proceedings failed. His refusal was quite peremptory. I suggested to him that it was a proper subject for him to take the direction of the board of directors upon which I do not remem-

ber he said anything further than that he did not believe the directors would assume any responsibility in the matter. Mr. Putnam and I then drew the letter which is set out in the bill, which was to be signed by some of the stockholders. The plaintiffs signed it and it was sent to Mr. Perkins; he called a meeting of the board and laid the letter before it and the board passed the resolution set out in the bill. Messrs. Russell & Putnam and I discussed the propriety of a bill by the stockholders, but nothing was determined on that subject until after the meeting of the board. I was authorized to file such a bill if I thought it best to do so. Mr. Perkins expected that the act would go into effect. As far as I know or have any reason to believe, there was no communication between the plaintiffs or any of them, or anybody representing them, and Mr. Perkins or any other officer or directors of the company except through me on this matter. My relations to the parties were such as to entitle me to full information of everything that was done. I am sure that there was no collusion between any of these plaintiffs or the Burlington Company, or its officers or managers, to bring their suit against that company; nor was the letter referred to above, nor the refusal of the officer or either of them made for the purpose of vesting jurisdiction in this Court, nor did said railroad company procure said plaintiffs or either of them to institute this action, or procure the injunction issued therein.

I had personal charge of all of the proceedings which led to the filing of the bill, and knew what was done and

said. Russell & Putnam had no communications on the subject with Mr. Perkins or other officers or directors of the company. Mr. Higginson was absent from the city during all of the time that I was in Boston, after the day of my arrival, and could not have had any communications with any of the officers or directors of the company. I was employed by the stockholders of the company and not by the company; I had no understanding whatever with the company, or that it would pay me for my services. All the expenses thus far paid have been paid by Lee, Higginson & Company, and I look to the stockholders of the company for my compensation. The plaintiffs were at the filing of the bill and are registered stockholders of 30,274 shares of stock, and also hold $910,900 of its bonds, each owning from 250 to 5,799 shares. I know nothing whatever of what may have passed between the plaintiffs in the suits against the other companies, further than that I have been assured by all parties that none of the plaintiffs in either of those suits ever had any communications, whatever, with any of the officers of the companies, and that the charge of collusion is entirely unfounded.

JOHN E. UTT, recalled, testified in behalf of complainants, as follows, viz:

DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Mr. Utt, when you were on the stand before I asked you with reference to classification of freight and the

effect of different classifications on the same road, but I neglected to ask you about classification on the roads west of Chicago, won't you please go on and state what classifications obtain west of Chicago?

A. Originally each line had a classification of its own west of Chicago, but when associations were formed so that lines got together on business, one of the first things they did was to adopt a uniform classification, because it was one of the most important things to do. In exchanging business between the roads where the classifications are different it is very perplexing, therefore, the result was a uniform classification was adopted, and while it began with just a few lines at first, as business increased other lines were taken in until a few years ago all the lines west of the Mississippi River and lines west of Chicago and south of Chicago adopted what is called the western classification, and that applies to all business in the territory referred to, including the roads in Nebraska, in and out of this state.

Q. How many classifications are there in the country?

A. I believe it is reduced now so that there is only three covering the United States; lines west of Chicago and lines east of Chicago have each a classification, and then the territory south of the Ohio River and east of the Mississippi River in connection with the steamship lines, have a classification, making three for the whole commerce of the country.

Q. Can you tell what the names of these classifications are?

A. The western classification and the eastern classification, and I do not know just the name that is applied to the classification used south of the Ohio River and east of the Mississippi River; it is the classification that is applied to the railroads and is used jointly with the classification applied to the steamship lines, applied to that business by way of Savannah and elsewhere.

Q. What is the name of the classification east of Chicago?

A. The eastern classification, and west of Chicago it is the western classification.

Q. Let me recall to you whether what you call the eastern classification is not known as the official classfication?

A. I cannot say about that; I do not know definitely about it; my impression is it was eastern classification in the sense it governed all business east of Chicago drawing a line south of the Ohio River. I have seen the classification a great deal, but I can not say whether it was or was not called the official classification.

Q. Has this subject been before the Inter-state Commerce Commission?

A. Yes, sir; before the formation of the Inter-state Commerce Commission it was a subject of constant contention. There is no railway question involved that is so important or so hard to master as the question of classification; it requires more attention and labor and knowledge than any other question involved in railway business, in my judgment.

When the Inter-state Commerce Commission was formed the question came up at once of having an uniform classification, and in the first annual report, of 1887, they devoted a long space to discussing this question. Again, in 1888, they did the same thing; in 1889 they also spoke quite at length of the necessity of uniform classification, and referred quite at length to the reports of 1887 and 1888. In 1890 they devoted seven pages to the necessity of uniform classification. They have communicated constantly with different railroads and associations on that subject, and the railroads have tried to get together and adopt uniform classification, and the Inter-state Commerce Commission has became impatient on the subject and threatened unless they did get up some uniform classification they will issue one to have a uniform classification all over the country.

Q. How does the classification fixed by House Roll No. 33 compare with the western classification?

A. It is a different classification; there are some articles in House Roll 33 that are not in the western classification and some the reverse; in several hundred instances where the articles are the same the class is changed; for example, where it might have been third class they make it fourth, or where it might have been fourth they make it fifth, just to illustrate. I consider it a different classification entirely from the western classification because of the large number of differences in paying rates on freight it will be necessary to have a thorough knowledge of both of them where the question of rates is involved.

Q. I want you to state again what connection you had with the paper mill at Lincoln, and the other enterprises carried on by Buckstaff?

A. I was vice president of the Buckstaff Manufacturing Company that ran a vitrified brick plant and a paper mill; the paper mill was, particularly, built under my supervision and operated for four years by me as manager of the mill.

Q. What concession in respect to rates were made by the railroads to the paper mill?

A. They made a one-third off on local shipments of straw; they made special rates on paper, and the principal thing, the crude product in and the manufactured product out.

Q. Were those paying rates to the company?

A. No, sir; I do not think they were as a rule; the straw rates, particularly, were not.

Q. Can you state what the amount of business was the paper mill did?

A. In tonnage?

Q. Yes, sir.

A. When they were shipping in straw there was two cars of straw a day, and I suppose a car of paper every three days.

Q. Is the paper mill running now?

A. No, sir.

Q. Why did it shut down?

A. Well, it was shut down because—and is not being operated now particularly because paper can be made at

other mills and sold at a better advantage than it can at the Lincoln mill.

Q. How about the brick material, material of brick and the shipment of brick?

A. The material the brick was manufactured from was hauled from Table Rock, Nebraska, to Lincoln, a distance of sixty-four miles, for $7.00 per car, 40,000 pounds to the car.

Q. How much of that material was shipped into Lincoln?

A. All the material they used in manufacturing brick.

Q. How much did it amount to?

A. Seven or eight cars a day.

Q. What do you say about the rates that were given by the company?

A. I do not think they were remunerative.

Q. Where did the Buckstaff's ship their product to?

A. Some was shipped to Omaha, and it was largely used in paving in Lincoln, Nebraska.

Q. How much was shipped to Omaha; what was the extent of the shipments?

A. The last year perhaps twenty per cent. of what they manufactured.

Q. How much did it amount to?

A. I think it was about—I forget whether it was a million or a million and a half brick; it was between a million and a million and a half.

Q. That was the aggregate of the shipments to Omaha?

A. Yes, sir.

Q. Is that enterprise being carried on now?

A. No, sir.

Q. Are you able to state from your knowledge whether the aggregate general office expenses of the Union Pacific and Burlington Railways are reasonable in this state for such companies, as compared with other like companies, and so on?

A. All I could state about that is that I have had long experience in general offices of railroads, and I know the salaries that are being paid, which is the principal expenses of conducting the B. & M. and Elkhorn in this town, I do not know so much about the Union Pacific, but I do not consider the expenses excessive, but on the other hand the management is very economical in connection with general offices.

Q. Can you state generally as to the expenses of conducting the business, whether it is reasonable or economical, or extravagant?

A. I consider in a general way, that it is economical; I do not think there is any more economical railroad managements in the country than there is on the Elkhorn and the B. & M., I am satisfied that is so. I do not know so much about the Union Pacific, but I know considerable about those two roads. I have known the officers for a great many years; I knew Mr. Burt in Iowa on the railroad there; I knew Mr. Holdrege when he commenced the work in

Plattsmouth, and I have known all the officers of the company for a great many years.

Mr. Webster reserves cross-examination until after arrival of Mr. Dilworth.

OMAHA, Wednesday, May 9th, 1894, 2 o'clock.

Present:

J. M. WOOLWORTH,

Solicitor for Complainants,

J. L. WEBSTER and

G. H. HASTINGS,

Solicitors for Respondents, Members of the State Board of Transportation.

Pursuant to adjournment, the further taking of testimony was resumed as follows:

J. G. TAYLOR,

RE-DIRECT EXAMINATION.

By Mr. Woolworth:

Q. Will you state what the earnings of the B. & M. lines in Nebraska are, west of the Missouri River, for the last six months of 1892, 1893, on freight, passenger and miscellaneous?

A.

	LAST SIX MONTHS OF '92	LAST SIX MONTHS OF '93.
Freight	$4,860,316.77	$3,326,961.51
Passenger	1,672,487.08	1,441,241.83
Miscellaneous	452,268.42	438,378.65
	$6,985,072.27	$5,206,581.99

Decrease in 1893, $1,778,490.28, or 25.5 per cent.

Q. State the amount of taxes paid by the Burlington & Missouri River Railroad in the State of Nebraska for the years ending June 30th, 1891, 1892 and 1893?

A. Year ending June 30th, 1891..... $509,734.49
Year ending June 30th, 1892..... 503,971.04
Year ending June 30th, 1893..... 499,849.51

$1,513,555.04

Plaintiffs offer in evidence the statement of taxes paid in the State of Nebraska by The Union Pacific Railroad Company, main lines, and the Omaha & Republican Valley Railroad, as follows:

All objections waived.

	UNION DIV.	O & R. V.
Year 1891	$242,964.92	$90,051.30
Year 1892	237,297.58	80,772.93
Year 1893	234,919.85	75,658.41

SURREBUTTAL.

OMAHA, Thursday, May 17, 1894, 2 o'clock P. M.

Present:

J. M. WOOLWORTH,
Solicitor for Complainants.

JNO. L. WEBSTER,

GEO. H. HASTINGS and

W. A. DILWORTH,

Solicitors for the Defendants, Members of the State Board of Transportation.

By agreement of parties the following testimony was taken at the above time and place.

J. E. HOUSE, called by Mr. Webster for defendants, testified as follows, viz:

Q. Mr. House, were you present during the time when Mr. Bogue gave his evidence in this case?

A. I was, yes, sir; most of the time.

Q. After his testimony had been extended did you look over a copy of it?

A. Yes, sir.

Q. I will ask you further whether you paid some special attention to what Mr. Bogue said touching the value of the terminal properties of the Union Pacific Railway in Omaha, to wit: that part extending from their yards to the station called Gilmore?

A. Yes, sir; I did.

Q. Let me ask you further whether aside from that testimony you had a general familiarity with that property?

A. Yes, sir.

Q. What have you to say as to the values put upon that terminal property by Mr. Bogue as to the reasonableness of the valuations stated by him?

A. I think they were very much in excess of what they should have been, that was my opinion.

Q. Have you prepared yourself and are you now qualified to state what in your opinion is the value of those terminal properties, and if so will you state it?

Objected to by Mr. Woolworth as not proper surrebuttal testimony; and it does not appear that the witness is qualified to speak on the subject.

A. I think I have; yes, sir.

Q. Will you state in tabulated form the value of those terminal properties?

A. Estimate of the cost of reproducing the Union Pacific Railroad from Omaha to Gilmore, Neb., including shop and depot grounds and terminal lands, between Izard street and the west line of Sixteenth street, in section 22, town 15 north, range 13 east, viz:

9.8	Miles main line	$18,160	$177,968 00
9.8	" double track	16,600	162,680 00
95.0	" Omaha yards and sidings to Gilmore	16,600	1,577,000 00
45.0	Acres in shops and depot grounds	15,000	675,000 00
35.0	Acres in lower yards	8,000	280,000 00
6.0	" " upper yards	15,000	90,000 00
25.0	" " South Omaha	8,000	200,000 00

Shop buildings, including machinery and furniture	325,000 00
Freight house	50,000 00
Headquarters	75,000 00
Add engineering and contingencies	361,264 00
Total	$3,973,912 00

(OMAHA, May 16, 1894.)

Q. I wish to call your attention to the mileage of the main line and of the switches, sidings and other tracks on the permanent properties as put down in your answer, and ask you from what data you took that mileage?

A. The mileage I took from Mr. Bogue's testimony.

Q. By that you mean for the purposes of your estimate you accepted his statement of the mileage as being correct?

A. Yes, sir.

Q. I see in your answer you have put down the grounds in the form of acres instead of putting it down in the form of lots as was done by Mr. Bogue? You may state your reasons for putting it in the form of acreage instead of putting it in the form of lots?

A. One reason was it was easier to arrive at the grounds that were within the shop limits.

Q. The grounds that you have thus included under the head of "acres" includes then, does it not, the ground which Mr. Bogue spoke of and enumerated in the form of lot numbers?

A. Yes, sir.

Q. How long have you been personally familiar with

the ground included in the Omaha terminals of the Union Pacific?

A. Since 1864; thirty years.

Q. And you are likewise familiar with that property up to the present time?

A. Yes, sir.

Q. I observe in your answer you have put in an item for engineering and contingencies amounting to $361,264.00; what is that intended to represent?

A. That is intended to represent labor that might be performed in the production of this amount of property in the way of engineering expenses and also any contingencies that might arise that are not met by the estimate in full.

Q. Then, in this statement have you had in mind that these properties could be reproduced and these buildings put upon the ground for the respective sums of money you have named, and then have added thereto the cost of engineering, surveys and other items of contingencies?

A. Yes, sir.

Q. I will ask you then, further, Mr. House, whether in your opinion this sum total to wit, $3,973,912.00, would be or is, in your opinion, a fair estimate of the value of that property as it now exists, or a sum of money which would reproduce the same property in its present condition?

A. I think it is; yes, sir; a fair, liberal estimate.

Q. You also know, do you not, Mr. House, the fact that a portion of these grounds included in the terminal properties enumerated by you in your answer are leased to

other parties and occupied by other parties, for instance, certain lumber yards and the smelting works, and so on?

A. Yes, sir.

Q. So that it is true in fact that a portion of the ground included in this acreage set down in your answer is not in fact used by The Union Pacific Railway Company for its terminal properties?

A. Unless they would be considered terminal properties, those lumber yards and tracks that are in the different yards and in the different coal yards and about the smelting works.

Q. There are several acres of ground are there not occupied by the smelting works?

A. Yes, sir.

Q. And there is considerable of the grounds covered by lumber yards is there not, at different places?

A. Yes, sir.

Q. If you were then simply to take into account the amount of acreage actually occupied by The Union Pacific Railway Company for its railway purposes proper you would not necessarily include all the acreage that is in this statement?

A. No, sir.

Q. I desire also to call your attention as to whether or not certain of the tracks, sidings and switches included in the statement named are or are not laid in certain of the streets and alleys of the city by mere permission of the city

council, and such tracks are not upon the terminal properties of the company whatsoever?

A. I think that is the fact, although I do not know of it excepting as I have read the proceedings in the city council, in which by resolution they have allowed this railroad company to lay tracks on their streets.

Q. Allow me to call your attention to one or two tracks; for instance, the track on Jackson street extending west to Tenth street, and ask you whether or not that track is not laid upon that street by permission of the city council in the form of an ordinance or resolution?

A. I think it was done in the form of a resolution; that is my recollection now.

Q. Also calling your attention to a track extending from the terminal grounds through an alley by the property of the Richardson Drug Company and extending to various other places on that extension, whether or not that trackage is not upon an alley of the city?

A. I believe it is, but I am not positive.

CROSS-EXAMINATION.

By Mr. Woolworth:

Q. Where did you read these proceedings of the city council; in the newspaper or in the record?

A. I recollect something of it from my work I did with Mr. John Greene; that is the reason I recollect part of it; I read it in the newspaper; I did not see the record.

Q. Then all the information you have on the subject is derived from what was in the newspaper?

A. That is what I saw in the newspaper as the proceedings of the council; I have not gone to the record at all; I only speak of this one instance as being quite sure, and that is the track on Jackson street.

Q. What is the extent of the track which you speak of which the company occupies under authority of the resolution of the city council?

A. It extends from about Seventh street to Tenth street.

Q. How wide?

A. How wide a track?

Q. Yes, sir.

A. It is 4 feet 8½ inches, the rails; the ties are 8 feet; it lays next to the curb or sidewalk, on the north side of the street.

Q. It is just a street of the city with a right to extend track through that street, is it not?

A. Yes, sir.

Q. It is no tract of land except the street, is it?

A. That is all.

Q. Are you acquainted with the lands that are the terminals of the Burlington?

A. Only in a general way; I know the nature of all those lands.

Q. Are you acquainted with the terminals of the Elkhorn and "Omaha" roads, extending north from Webster street?

A. Yes, sir.

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Q. Those lands are not quite as good for railroad terminals as the Union Pacific, are they?

A. Some of them are.

Q. And you mean to say some of them are not?

A. Some of them are not.

Q. Now, I suppose you mean those furthest north are not as good as the terminals of the Union Pacific?

A. O, not exactly that; it is the poorest part of those lands that are the lands lying down next to Nicholas street; the north end of those lands are on higher ground.

Q. On that account only you think they are worth more than the terminals of the Union Pacific, is that what I understand you to say?

A. After being brought up to a uniform grade they are all equal in value.

Q. They lie to the north part of the town, don't they?

A. Yes, sir.

Q. And still you think they are just as good as the Union Pacific land, do you, the Union Pacific lands that lie on the same bottom?

A. No; lands that are lying opposite the heart of the city are more valuable than those that are further removed, for the convenience of the people and their own individual business; that is, they are liable to get more business directly opposite the heart of the city than they would north or south of it.

Q. The Union Pacific terminals are directly in front of the heart of the city, are they not?

A. Yes; they are.

Q. And the terminals of the Elkhorn and "Omaha" roads are further to the north, are they not?

A. They are; yes, sir.

Q. Then would you not say that the Union Pacific terminals were worth more than the terminals of the Elkhorn and "Omaha."

A. Yes; of course I would say so, but then what you have referred to was, I understand your question to mean, as regards the general character of the country, that was the inference that I took from your first question, when I said they were equally as good. I mean the general character of the country, not the enhanced value that might accrue to them from the fact of their lying opposite to the heart of the city?

Q. What do you think the lands north of the Webster street depot occupied by the Elkhorn and "Omaha" roads for their terminals are worth an acre?

A. I presume they are worth about $2,500 or $3,000 an acre.

Q. Can you tell what they would be worth in lots per lot?

A. That would depend altogether on the size of the lot.

Q. The ordinary size of a lot here, 66x132?

A. That would put the lots at about between $500 and $600 a lot.

Q. Do you think that is a fair estimate on the average from Webster street north to the roundhouse?

A. Yes, sir; I do.

Q. Would you say on the average throughout, or would you say that the south part is worth that and the north part not worth so much?

A. I would make but very little distinction in that distance, because the property has access from Grace street, those streets leading off from 16th street, and there is no access except by Nicholas street on the south—they have got to be reached by Nicholas street or Grace street.

Q. So you would say that the property is worth about $500 or $600 on the average?

A. On the average.

Q. And you consider that the south part is not worth very much more than the north part?

A. I presume so.

Q. How about the Burlington terminals, how much would you say they were worth per acre?

A. What do you mean by the Burlington terminals?

Q. You said you were familiar with the terminals of the Burlington road, didn't you?

A. Yes, sir.

Q. Well?

A. If you have in view the lots on Leavenworth street or Jones where their freight depot is—those grounds there will run about, I should say about $12,000, between $10,000 and $12,000 an acre.

Q. And that adjoins the Union Pacific on the south, don't it?

A. They lie between the Union Pacific and the city and north of Jones street.

Q. Now, tell me what you mean by "between the Union Pacific and the city," where do they lie between the Union Pacific and the city?

A. They are bounded on the east by the Union Pacific Railway.

Q. What street is that?

A. Well, it lays on a four degree curve, the Union Pacific road, it crosses a number of streets, it goes east as far as Fifth street, that is down on Farnam street in the vicinity of Farnam street, and it is bounded on the north by Farnam street, or in the vicinity of Farnam street, and bounded on the west, well, it is between Seventh and Eighth streets and on the south by the Union Pacific again.

Q. Then what you have been speaking of as the Burlington terminals are the lands within the lines you have now described?

A. That is that part of them are the freight yards, that is about their present freight house.

Q. Is that all the land that lies between the Union Pacific and the city belonging to the Burlington?

A. I think so.

Q. Now, tell me what you mean by lying between the Union Pacific and the city?

A. Well, I mean those lands as I have described them

that are bounded on the south by the Union Pacific, on the east by the Union Pacific and on the north by Farnam street, or in the vicinity of Farnam street, and on the west by Seventh, between Seventh and Eighth.

Q. Now, there is not much city east of Seventh street and north of Farnam, is there?

A. Why, that is all in the bottom there, if that is what you have reference to.

Q. There is not much city that is east of Seventh street and north of Farnam street, is there?

A. No, sir.

Q. Then you would not hardly say that land lay between the Union Pacific and the city?

A. That portion of it that is cut off does most assuredly?

Q. What portion is cut off?

A. That portion between Farnam street and Jackson.

Q. Down between Fifth and Seventh?

A. Between Fifth and Seventh and Eighth streets.

Q. You think that lies between the Union Pacific and the city, do you?

A. Yes, sir.

Q. That is all that lies between the Union Pacific and the city, is it not?

A. I believe it is.

Q. Now, how much do you say that land down there is worth?

A. Between $10,000 and $12,000 an acre.

Q. Now name the other terminals of the Burlington?

A. They have the old trackage of the Omaha & Southwestern.

Q. Who has?

A. The Burlington people.

Q. Tell where that is?

A. That includes with their freight tracks pretty nearly on the intersection of Harney and Fifth streets, there where they make their crossing on the main line of the Union Pacific road, extending south-easterly and passes under the Union Pacific bridge, and extends down through Grand View and next to the bluffs down to Gibson.

Q. How wide is that piece of ground?

A. I am unable to say exactly what the width is; the right-of-way that was obtained in the first place by the Omaha & Southwestern was one hundred feet; some part of that is washed in the river, I do not know what extent they have there now, whether they have one hundred feet or more.

Q. Those would be about the same per acre as the other land between Fifth and Seventh?

A. No, sir.

Q. How much is it worth?

A. Well, I would hardly think that land would be worth more than $2,500 an acre.

Q. Is that all the terminals of the Burlington?

A. They occupy some lands on the depot grounds, on what is known as the Union Depot grounds.

Q. Do they own that?

A. I do not know; I know they are occupying lands there, whether they own them or not I do not know. I do not know whether they own any of these lands they are using, I presume that they do, though.

Q. Do you know what is the extent of the terminals of the Burlington?

A. I know the lands they occupy.

Q. How many acres are they?

A. I could not tell that in acreage.

Q. Do you know of lands being bought within the last three years adjoining any of the lands either of the Union Pacific, Burlington, Elkhorn or "Omaha" roads, which you have already mentioned?

A. I know of some lands that were purchased by the East Omaha Land Company north of the shop grounds—bought some lands there from Mr. Harbach.

Q. Where are those lands?

A. Situated north of Nicholas street and west of Eleventh.

Q. Do you know how much the East Omaha Land Company paid for those lands?

A. I do not.

Q. Do you know when they bought them?

A. Yes; those lands were purchased in the fall or winter of 1893; either the fall of 1892 or winter of 1893.

Q. How do you know that?

A. I know that from the fact I was asked to make the

survey giving the boundaries of those lands, and they stated to me they had purchased that ground.

Q. When did you make the survey?

A. I think it was in 1892.

Q. Do you know of any other purchases down there in that part?

A. I do not.

W. A. DILWORTH, called in surrebuttal.

DIRECT EXAMINATION.

By Mr. Webster:

Q. Mr. Dilworth, have you examined the reports made by the Burlington & Missouri River Railroad Company to the State Board of Transportation of the State of Nebraska, with reference to ascertaining the average distance of the haul of freight and also with reference to the average amount received for each ton of freight so hauled?

A. Yes, sir.

Q. Does the report of that company set forth those two facts, first, the average distance of haul of one ton of freight, and also the average amount received for each ton of freight?

A. Yes, sir.

Q. Did you examine the reports for the year 1891 with reference to the facts above inquired of?

A. Yes, sir.

Q. Did you examine the report of that road for the year 1892 touching the same inquiry?

A. Yes, sir.

Q. And did you make a like inquiry touching the report for 1893?

A. Yes, sir.

Q. Have you likewise examined House Roll No. 33, with a view to ascertaining what amount of money the railway company would be permitted to charge for the various classifications for the same number of miles as set down in the respective reports of the railway company for the distance reported to be the average haul of one ton?

A. Yes, sir.

Q. Have you prepared a statement showing the amount which the railway company would be permitted to charge and receive under House Roll No. 33, for the haul of one ton for the like distance?

A. Yes, sir.

Q. Did you make a like inquiry into the report of the Chicago, St. Paul, Minneapolis & Omaha Railroad Company for the year ending June 30, 1891?

A. Yes, sir.

Q. And also for 1892?

A. Yes, sir.

Q. And for the year 1893?

A. Yes, sir.

Q. And did you make a like computation of the amount the railway company would be permitted to charge and receive for a like haul under House Roll No. 33?

A. Yes, sir.

Q. Did you make a like investigation and computa-

tion as to the Fremont, Elkhorn & Missouri Valley Railroad Company?

A. Yes, sir.

Q. And as to The Union Pacific Railway Company?

A. Yes, sir.

Q. And as to the Omaha & Republican Valley Railroad Company?

A. Yes, sir.

Q. And as to the St. Joseph & Grand Island Railroad Company?

A. Yes, sir.

Q. And as to the Kansas City & Omaha Railroad Company?

A. Yes, sir.

Q. Will you produce and have attached hereto as a part of your testimony the result of your examination as to the respective reports of the respective railway companies inquired of, and also the result of your investigation of the rates permitted to be charged by House Roll No. 33 for a like distance of haul of one ton of freight under the different classifications referred to in House Roll No. 33?

Objected to by Mr. Woolworth as immaterial, irrelevant and not the best evidence?

A. Yes, sir; this is it, which I ask to have inserted as a part of my answer:

1658

Defendant's Exhibit "28."

(Copy.)

The Burlington & Missouri River Railroad Company in Nebraska, in its annual report for year ending June 30th, 1891, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 135 miles."

"Average amount received for each ton of freight $1.98."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 135 miles upon each 100 pounds, and each ton of freight so carried.

1891.

CLASSIFICATION.	Rates per 100 pounds for 135.6 miles.	Amount per ton for hauling 135 miles.
1	.35	$7 00
2	.33	6 60
3	.29	5 80
4	.225	4 50
5	.20	4 00
A	.20	4 00
B	.13	2 60
C	.115	2 30
D	.08	1 60
E	.06	1 20
Wheat, etc	.12	2 40
Corn, etc	.10	2 00
Lumber, etc	.085	1 70
Salt, etc	.11	2 20

The Burlington & Missouri River Railroad Company in Nebraska in its annual report for the year ending June 30, 1892, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 159 miles."

"Average amount received for each ton of freight $2.15."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33, for carrying the several classes of freight upon the same railroad for the same distance, viz: 159 miles upon each 100 pounds, and each ton of freight so carried:

1892.

CLASSIFICATION.	Rates for 159 miles per 100 pounds.	Amount of charge for hauling one ton 159 miles.
1	.44	$8 80
2	.40	8 00
3	.36	7 20
4	.28	5 60
5	.24	4 80
A	.24	4 80
B	.15	3 00
C	.14	2 80
D	.10	2 00
E	.065	1 30
Wheat, etc	.13	2 60
Corn, etc	.11	2 20
Lumber, etc	.10	2 00
Salt, etc	.122	2 44

1660

The Burlington & Missouri River Railroad Company in Nebraska, in its annual report, for year ending June 30, 1893, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 160 miles."

"Average amount received for one ton of freight $2.12."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33, for carrying the several classes of freight upon the same railroad for the same distance, viz: 160 miles, upon each 100 pounds and each ton of freight so carried:

1893.

CLASSIFICATION.	Rates for 160 miles per 100 pounds.	Amount of Charge for hauling one ton 160 miles.
1	.44	$8 80
2	.40	8 00
3	.36	7 20
4	.28	5 60
5	.24	4 80
A	.24	4 80
B	.15	3 00
C	.14	2 80
D	.10	2 00
E	.065	1 30
Wheat, etc	.13	2 60
Corn, etc	.11	2 20
Lumber, etc	.10	2 00
Salt, etc	.122	2 44

The Chicago, St. Paul, Minneapolis & Omaha Railroad Company, in its annual report for year ending June 30, 1891, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton, 159 miles."

"Average amount received for each ton of freight, $1.72."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 159 miles upon each 100 pounds and each ton of freight so carried:

1891.

CLASSIFICATION	Rates for 159 miles per 100 pounds.	Amount of charge for hauling one ton 159 miles.
1	.44	$8 80
2	.40	8 00
3	.36	7 20
4	.28	5 60
5	.24	4 80
A	.24	4 80
B	.15	3 00
C	.14	2 80
D	.10	2 00
E	.065	1 30
Wheat, etc	.13	2 60
Corn, etc	.11	2 20
Lumber, etc	.10	2 00
Salt, etc	.122	2 44

1682

The Chicago, St. Paul, Minneapolis & Omaha Railroad Company, in its annual report for the year ending June 30, 1892, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton, 167 miles."

"Average amount received for each ton of freight, $1.87."

Taking this as a basis, the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 167 miles upon each 100 pounds and each ton of freight so carried:

1892.

CLASSIFICATION.	Rates for 167 miles per 100 pounds.	Amount of charge for hauling one ton 167 miles.
1	.48	$9 60
2	.42	8 40
3	.38	7 60
4	.32	6 40
5	.26	5 20
A	.26	5 20
B	.15	3 00
C	.14	2 80
D	.10	2 00
E	.065	1 30
Wheat, etc	.14	2 80
Corn, etc	.12	2 40
Lumber, etc	.11	2 20
Salt, etc	.124	2 48

The Chicago, St. Paul, Minneapolis & Omaha Railroad Company, in its annual report for the year ending June 30, 1893, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton, 163 miles."

"Average amount received for each ton of freight, $1.81."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 163 miles upon each 100 pounds and each ton of freight so carried:

1893.

CLASSIFICATION.	Rates for 163 miles per 100 pounds.	Amount of charge for hauling one ton 163 miles.
.....	.46	$9 20
.....	.41	8 20
.....	.37	7 40
.....	.30	6 00
.....	.25	5 00
.....	.25	5 00
.....	.15	3 00
....	.14	2 80
.....	.10	2 00
heat, etc.....	.065	1 30
rn, etc.....	.135	2 70
mber, etc.....	.115	2 30
lt, etc.....	.105	2 10
	.123	2 46

1664

The Fremont, Elkhorn & Missouri Valley Railroad Company in its annual report for the year ending June 30, 1891, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 152 miles."

"Average amount received for each ton of freight $2.12."

Taking this as a basis, the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz., 152 miles upon each 100 pounds and each ton of freight so carried:

1891.

CLASSIFICATION.	Rates for 152 miles per 100 pounds.	Amount of charge for hauling one ton 152 miles.
1	.42	$8 40
2	.38	7 60
3	.34	6 80
4	.26	5 20
5	.23	4 60
A	.23	4 60
B	.145	2 90
C	.135	2 70
D	.095	1 90
E	.065	1 30
Wheat, etc	.13	2 60
Corn, etc	.11	2 20
Lumber, etc	.095	1 90
Salt, etc	.121	2 42

2801

1665

The Fremont, Elkhorn & Missouri Valley Railroad Company in its annual report for the year ending June 30, 1892, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 155 miles."

"Average amount received for each ton of freight $2:47."

Taking this as a basis, the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 155 miles, upon each 100 pounds and each ton of freight so carried.

1892.

CLASSIFICATION	Rates for 155 miles per 100 pounds	Amount of charge for hauling one ton 155 miles
1	.42	$8 40
2	.38	7 60
3	.34	6 80
4	.26	5 20
5	.23	4 60
A	.23	4 60
B	.145	2 90
C	.135	2 70
D	.095	1 90
E	.065	1 30
Wheat, etc.	.13	2 60
Corn, etc.	.11	2 20
Lumber, etc.	.095	1 90
Salt, etc.	.121	2 40

The Fremont, Elkhorn & Missouri Valley Railroad Company in its annual report for the year ending June 30, 1893, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 143 miles."

"Average amount received for each ton of freight, $2.26."

Taking this as a basis, the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 143 miles upon each 100 pounds and each ton of freight so carried:

1893.

CLASSIFICATION.	Rates for 143 miles for 100 pounds.	Amount of charge for hauling one ton 143 miles.
1	.39	$7 80
2	.35	7 00
3	.31	6 20
4	.235	4 70
5	.21	4 20
A	.22	4 40
B	.135	2 70
C	.125	2 50
D	.085	1 70
E	.065	1 30
Wheat, etc	.125	2 50
Corn, etc	.105	2 10
Lumber, etc	.09	1 80
Salt, etc	.115	2 30

The Union Pacific Railway Company in its annual report for the year ending June 30th, 1891, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 190 miles."

"Average amount received for each ton of freight $1.83."

Taking this as a basis for the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 190 miles upon each 100 pounds, and upon each ton of freight so carried:

1891.

CLASSIFICATION.	Rates for 190 miles per 100 pounds.	Amount of charge for hauling one ton 190 miles.
1	.52	$10 40
2	.46	9 20
3	.41	8 20
4	.34	6 80
5	.30	6 00
A	.28	5 60
B	.18	3 60
C	.16	3 20
D	.11	2 20
E	.07	1 40
Wheat, etc	.14	2 80
Corn, etc	.12	2 40
Lumber, etc	.11	2 20
Salt, etc	.128	2 56

1668

The Union Pacific Railway Company, in its annual report for the year ending June 30, 1892, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton, 222 miles."

"Average amount received for each ton of freight, $2.06."

Taking this as a basis, the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railway for the same distance, viz: 222 miles upon each 100 pounds and each ton of freight so carried:

1892.

CLASSIFICATION.	Rates for 222 miles per 100 pounds.	Amount of charges for hauling one ton 222 miles.
1	.57	$11 40
2	.51	10 20
3	.455	9 10
4	.39	7 80
5	.33	6 60
A	.295	5 90
B	.215	4 30
C	.175	3 50
D	.125	2 50
E	.095	1 90
Wheat, etc	.145	2 90
Corn, etc	.13	2 60
Lumber, etc	.13	2 60
Salt, etc	.145	2 90

The Union Pacific Railway Company in its annual report for the year ending June 30, 1893, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 208 miles."

"Average amount received for each ton of freight $1.88."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railway for the same distance, viz: 208 miles upon each 100 pounds and each ton of freight so carried:

1893.

CLASSIFICATION.	Rates for 208 miles per 100 pounds.	Amount of charge for hauling one ton 208 miles.
1	.555	$11 10
2	.49	9 80
3	.44	8 80
4	.37	7 40
5	.315	6 30
A	.29	5 80
B	.205	4 10
C	.17	3 40
D	.12	2 20
E	.085	1 70
Wheat, etc	.145	2 90
Corn, etc	.13	2 60
Lumber, etc	.115	2 30
Salt, etc	.135	2 70

1670

The Omaha & Republican Valley Railroad Company, in its annual report for the year ending June 30, 1891, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton, 75 miles."

"Average amount received for each ton of freight, $1.23."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 75 miles upon each 100 pounds and each ton of freight so carried:

1891.

CLASSIFICATION.	Rates for 75 miles per 100 pounds.	Amount of charge for hauling one ton 75 miles.
1	.28	$5 60
2	.23	4 60
3	.18	3 80
4	.16	3 20
5	.12	2 40
A	.12	2 46
B	.09	1 80
C	.08	1 60
D	.06	1 20
E	.04	80
Wheat, etc	.09	1 80
Corn, etc	.085	1 70
Lumber, etc	.08	1 60
Salt, etc	.06	1 20

The Omaha & Republican Valley Railroad Company in its annual report for the year ending June 30, 1892, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 72 miles."

"Average amount received for each ton of freight $1.38."

Taking this as a basis, the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 72 miles, upon each 100 pounds and each ton of freight so carried:

1892.

CLASSIFICATION	Rates for 72 miles per 100 pounds	Amount of charge for hauling one ton 72 miles
1	.28	$5 60
2	.23	4 60
3	.18	3 80
4	.16	3 20
5	.12	2 40
A	.12	2 46
B	.09	1 80
C	.09	1 60
D	.06	1 20
E	.04	80
Wheat, etc.	.09	1 80
Corn, etc.	.085	1 70
Lumber, etc.	.08	1 60
Salt, etc.	.06	1 20

1672

The Omaha & Republican Valley Railroad Company in its annual report for the year ending June 30, 1893, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 62 miles."

"Average amount received for each ton of freight, $1.18."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 62 miles upon each 100 pounds and each ton of freight so carried.

1893.

CLASSIFICATION.	Rates for 62 miles per 100 pounds	Amount of charge for hauling one ton 62 miles
1	.26	$5 20
2	.26	4 40
3	.17	3 40
4	.14	2 80
5	.11	2 20
A	.11	2 20
B	.09	1 80
C	.06	1 20
D	.07	1 40
E	.04	80
Wheat, etc	.08	1 60
Corn, etc	.07	1 40
Lumber, etc	.07	1 40
Salt, etc	.055	1 10

The St. Joseph & Grand Island Railroad Company in its annual report for the year ending June 30, 1891, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 59 miles."

"Average amount received for each ton of freight $0.87."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 59 miles upon each 100 pounds and each ton of freight so carried.

1891.

CLASSIFICATION.	Rates for 59 miles per 100 pounds.	Amount of charge for hauling one ton 59 miles.
1	.24	$4 80
2	.21	4 20
3	.16	3 20
4	.13	2 60
5	.10	2 00
A	.11	2 20
B	.08	1 60
C	.07	1 40
D	.06	1 20
E	.04	80
Wheat, etc	.075	1 50
Corn, etc	.07	1 40
Lumber, etc	.07	1 40
Salt, etc	.055	1 10

1674

The St. Joseph & Grand Island Railroad Company in its annual report for the year ending June 30, 1892, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 50 miles."

"Average amount received for each ton of freight $0.63."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 50 miles upon each 100 pounds and each ton of freight so carried:

1892.

CLASSIFICATION.	Rates for 50 mile per 100 pounds.	Amount of charge for hauling one ton 50 miles.
1	.24	$4 80
2	.19	3 80
3	.145	2 90
4	.12	2 40
5	.10	2 00
A	.10	2 00
B	.08	1 60
C	.07	1 40
D	.06	1 20
E	.055	1 70
Wheat, etc	.07	1 40
Corn, etc	.07	1 40
Lumber, etc	.07	1 40
Salt, etc	.055	1 10

The St. Joseph & Grand Island Railroad Company, in its annual report for the year ending June 30, 1893, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 55 miles."

"Average amount received for each ton of freight $0.67."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same road for the same distance, viz: 55 miles upon each 100 pounds and each ton of freight so carried:

1893.

CLASSIFICATION.	Rates for 55 miles per 100 pounds.	Amount of charge for hauling one ton 55 miles.
1	.24	$4 80
2	.20	4 00
3	.15	3 00
4	.12	2 40
5	.10	2 00
A	.10	2 00
B	.08	1 60
C	.07	1 40
D	.06	1 20
E	.04	80
Wheat, etc	.07	1 40
Corn, etc	.07	1 40
Lumber, etc	.07	1 40
Salt	.055	1 10

1676

The Kansas City & Omaha Railroad Company in its annual report for the year ending June 30, 1891, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 46 miles."

"Average amount received for each ton of freight $0.77."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 46 miles upon each 100 pounds and each ton of freight so carried:

1891.

CLASSIFICATION.	Rates for 46 miles per 100 pounds.	Amount of charge for hauling one ton 46 miles.
1	.22	$4 40
2	.18	3 60
3	.14	2 80
4	.11	2 20
5	.10	2 00
A	.10	2 00
B	.07	1 40
C	.06	1 20
D	.05	1 00
E	.035	70
Wheat, etc	.07	1 40
Corn, etc	.07	1 40
Lumber, etc	.07	1 40
Salt, etc.	.055	1 10

1677

The Kansas City & Omaha Railroad Company, in its annual report for the year ending June 30th, 1892, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 44 miles."

"Average amount received for each ton of freight $0.61."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 44 miles upon each 100 pounds and each ton of freight so carried:

1892.

CLASSIFICATION	Rates for 44 miles per 100 pounds.	Amount of charge for hauling one ton 44 miles.
1	.22	$4 40
2	.18	3 60
3	.14	2 80
4	.11	2 20
5	.10	3 00
A	.10	2 00
B	.07	1 40
C	.06	1 20
D	.05	1 00
E	.035	70
Wheat, etc	.07	1 40
Corn, etc	.07	1 40
Lumber, etc	.07	1 40
Salt, etc	.055	1 10

1678

The Kansas City & Omaha Railroad Company, in its annual report for the year ending June 30, 1893, filed with the State Board of Transportation, among other things reported as follows:

"Average distance haul of one ton 44 miles."

"Average amount received for each ton of freight $0.61."

Taking this as a basis the following table shows the amount permitted to be charged by House Roll No. 33 for carrying the several classes of freight upon the same railroad for the same distance, viz: 44 miles upon each 100 pounds and each ton of freight so carried:

1893.

CLASSIFICATION.	Rates for 44 miles per 100 pounds.	Amount of charge for hauling one ton 44 miles.
1	.22	$4 40
2	.18	3 60
3	.14	2 80
4	.11	2 20
5	.10	2 00
A	.10	2 00
B	.07	1 40
C	.06	1 20
D	.05	1 00
E	.035	70
Wheat, etc	.07	1 40
Corn, etc	.07	1 40
Lumber, etc	.07	1 40
Salt, etc	.055	1 10

Q. Did you make that examination with sufficient care and prepare the tables with sufficient care as to be able to state that the matters and things therein set down are true and correct?

Objected to by Mr. Woolworth as immaterial, irrelevant and not the best evidence.

A. Yes, sir.

CROSS-EXAMINATION.

By Mr. Woolworth:

Q. Mr. Dilworth, the two columns in the table give as I understand it in the first column the rate which the law permits the companies to charge for hauling 100 pounds of freight?

A. Yes, sir; that distance.

Q. And the second the amount of charge for hauling one ton that distance?

A. Yes, sir.

Q. Now, I want to call your attention to the report of the Burlington road for the year ending June 30, 1893, and ask you to tell me how it comes about that you give the rate for 160 miles per hundred pounds in the first column and in the second column you give the amount of charge for hauling one ton 135 miles?

A. That is probably a mistake in writing it in; that is a mistake in writing that in for the year 1891, that 135 should be 160.

Q. How did you come to make that mistake?

A. Well, that was the stenographer in writing it in; I

would like to change that, with your permission, and make it in proper form. The 135 was taken from the 1891 sheet.

(Thereupon the witness changed his figures from 135 to 160).

Q. How could that be when in the next column it was 160. Then you did not make up these tables yourself?

A. I made up the pencil copy and had it put on the typewriter.

Q. Did you look to see if the typewriter was right?

A. I went over it once afterwards to compare and see; I probably overlooked that one place.

Q. What business is the average distance haul of one ton for the different miles, or rather, what is the business upon which the average distance haul of one ton 135 miles on the Burlington report ending June 30, 1891, is given?

A. That is on their entire business?

Q. Through, inter-state and local, do you mean?

A. Yes, sir.

Q. And that is true on all the other sheets, is it?

A. Yes, sir.

Q. And how is that in respect of the item "Average amount received for each ton of freight, $1.98" in the same report, that is, the Burlington Company's report for the year ending June 30, 1891?

A. That is the same, applies upon all their business.

Q. That is so, is it, all through all of the other tables?

A. Yes, sir.

Q. How did you ascertain the number of tons carried one mile locally by each of the companies?

A. Why, multiplying the number of tons carried by the average distance hauled.

Q. And you mean you multiplied the number of tons carried locally by the average distance hauled?

A. Yes, sir.

Q. How did you get that data?

A. Well, that is by investigating every source that I could to get the number of tons carried locally, from personal examination of every source of information that I could get.

Q. Where did you get the average distance hauled?

A. I got that from the report of the railroads.

Q. Now, in one of your other tables you give the percentage of operating expenses to earnings; state what that percentage is?

A. That is upon the entire business done by the railroad company.

Q. Is it not true that the local business costs a good deal more to do than the through business?

A. Yes; it costs more to do local business than it does to do through business.

Q. Then the percentage of operating expenses on the local business would exceed the percentage on all the business, would it not?

A. I think so; yes, sir.

Q. Can you tell how much now; have you any idea?

A. It is impossible to tell that, Judge Woolworth. I

should say probably ten per cent., but it would be only guess work on my part, because it is impossible to tell.

Q. Would not it be probably a great deal more than ten per cent.?

A. It might be; I would hate to make an estimate on it, because it is one of those things it is impossible to tell; it might run up to twenty per cent., and probably might be higher than that.

Q. It would be over 10 per cent. would it not?

A. I presume it would.

Q. Will you tell me how you compare the average distance hauled of one ton 135 miles and the average amount received for each ton of freight, $1.98, with the amount allowed by the bill in the Burlington Company's report for the year ending June 30, 1891?

A. I do not know as I understand your question, Judge Woolworth, entirely.

Q. Is it the object of this statement or these statements that you have made to show a comparison of the earnings of the companies as reported by them with the rate allowed by the bill?

A. The object of it, as I understand it, is to show what the average amount received by the railroad companies for hauling one ton of freight for the average distance hauled as reported by them, then, in connection with that was the idea that the House Roll No. 33 provided certain rates for the same distance, and to show how they compared.

Q. Well, then, take the Burlington report for the year ending June 30, 1891, which gives the average distance hauled one ton, 135 miles?

A. Yes, sir.

Q. Then take the average amount received for each ton of freight $1.98?

A. Yes, sir.

Q. Multiply those together and it gives you for a haul of one ton 135 miles about $3.65, doesn't it?

A. I never made the calculation.

Q. Well, it is about that. If it were $2 instead of $1.98 it would be exactly $3.70, wouldn't it?

A. Your figures are there; you take the number of miles of average haul and multiply them by the average amount received that is the average amount received for hauling it for 135 miles.

Q. Yes, sir?

A. What is it you want to get at?

Q. Multiply those together and it gives you $3.70; if it were $2.00 instead of being $1.98 it would be $2.70, would it not?

A. Yes, sir; but that is the entire charge that they receive for carrying one ton that number of miles, 135 miles.

Q. That was your idea, was it not?

A. I think you have got somewhat mixed up on this. I do not understand your idea of multiplying the one by the other; the $1.98 is the result reached by carrying one

ton 135 miles, multiplied by the average amount received per ton per mile.

Q. Then you multiply the two together and you get the earnings of the company on an average haul of 135 miles, don't you?

A. No; the $1.98 is the amount received for the 135 miles; that is the average amount received, and the average distance hauled is 135 miles.

Q. In the former tables which you gave did you take the number of tons hauled locally for the years 1891, 1892 and 1893 from the reports of the company to the Board?

A. No, sir; I made every investigation that I could in regard to the matter.

Witness excused.

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PLAINTIFFS' EXHIBITS.

EXHIBIT 1.

Legislature of Nebraska, twenty-third session.

House roll No. 33.

A BILL

For an act to regulate railroads; to classify freights; to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska.

Introduced by Fred. Newberry.

Read the first time January 14th, 1893; ordered to second reading; read second time January 16th, 1893; referred to committee on railroads; sent to printer January 17th, 1893.

Be it enacted by the legislature of Nebraska:

SECTION 1. The provisions of this act shall apply, except in this act otherwise provided to all railroads
2 corporations, and railroad companies, and to any common carrier or carriers engaged in this State in the
3 transportation of freights by railroad therein, and shall also be held to apply to shipments of property
4 made from any point within the State to any other point within the State, the term "railroad" as
5 used in this act, shall include all bridges and ferries used or operated in connection with any railroad
6 and also all the road in use, by any corporation, receiver, trustee, or other person operating a railroad
7 whether owned or operated under contract, agreement, lease, or otherwise, and the term "transportation"
8 shall include all instrumentalities of shipment or carriage, and the term "railroad corporation" con-
9 tained in this act, shall be deemed and taken to mean all corporations companies or individuals, now
10 ow-ing or operating or which may hereafter own or operate any railroad in whole or in part in this
11 State and the provisions of this act, except as in this act otherwise provided shall apply to all persons

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12 firms and companies, and to all associations of persons, whether incorporated or otherwise that shall
13 do business as common carriers of freight, upon any of the lines of railway in this State, the same as to

railroad corporations herein mentioned.

SEC. 2. That all freight or property to be transported, by an railroad company or companies mentioned in the preceding section, from any point in the State of N braska, to any other point in said State shall be classified as hereinafter in this section provided, and any oth or different classification of freight which would raise the rates on class or commodity of freight above th rates prescribed in this act except as hereinafter otherwise provided, is prohibited and declared to be u lawful, the classification established by this act shall be known as the "Nebraska classification" freig shall be billed at the actual weight unless otherwise directed in the classification. Twenty thousan pounds shall be a car-load, and all excessive weights shall be at the same rate per hundred pounds, except in ca loads of light and bulky articles, and unless otherwise specified in the classification. When the classific tion makes an article "released" or "owner's risk" the same at carrier's risk, will be the next rate higher unle otherwise provided in the classification. Articles rated first class "released" or "owner's risk" if take at "carrier's risk" will be 1½ times first class unless otherwise provided in the classification. All articles ca ried according to this classification at "owner's risk" of fire, leakage, damage or breakage, must be s receipted for, by agents at the railroad and so considered by owners and shippers, signing a release contract by a shipper shall not release the railroad company for loss or damage, caused by carelessness o negligence of its employee-.

The Nebraska Classification—Explanation of Characters.

The class is given opposite each article, 1, 2, 3, 4, 5 stand fo first, second, third fourth, and fifth classes respectively. 1½ for one and one-half first clas D 1 for double first class. 2½ for two and one-half times first class. 3 t 1 for three times first class. 4 t for four times first class. O. R. for owner's risk. C. R. for carrier's risk. S. U. for set up. K. D. fo knocked down. C. L. for car-load. P. P. for prepaid. N. O. S. for "not otherwise specified" in this classification. Classes A, B, C, D and E refer to table of rates.

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A.

		C.	L.	
24	Advertising boards in bundles	..		3
25	Advertising matter and almanacs, boxed or in bundles, O. R. prepaid	..	1	3
26	Advertising matter "not to exceed 500 pounds" O. R. released may be shipped with car-loads of arti-			
27	cles, advertised, at the car-load rate of articles shipped.			
28	Agricultural implements, also parts of agricultural implements, returned to manufacturers for re-			
29	pair, will be charged half tariff rates, when returned by same railroad or railroads as			
30	originally forwarded, when returned by other railroad or railroads than originally for-			
31	warded by, full tariff rates will be charged.			
32	Agricultural implements (not including hand implements) at O. R. of br-aking and chafing	..		A
33	NOTE.—Any shipment of agricultural implements (except threshers, separators, clover-			
34	hullers or corn-shellers) requiring an entire car will be charged the C. L. rate	..		A
35	In less than C. L. O. R. as follows:			
36	Agricultural implements, light and bulky:			
37	N. O. S. set up	D	1	A
38	K. D. flat in bundles		1	A
39	Binder trucks		1	A
40	Binding attachments for harvesting machines:			
41	Boxed or crated		3	A
42	Bundle-carriers in bundles		3	A
43	Check-rowers		1	A
44	Check-rower wire		3	A

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45	Corn drills:			
46	Set up		1	A
47	K. D. in bundles		2	A
48	K. D. boxed or crated		3	A
49	Corn-harvesters		1	A
50	Corn-planters:			
51	Set up	D	1	A
52	K. D. flat in bundles		1	A
53	Cotton-picking machines, wheels on or off, other detachable parts removed		1	A

54	Cotton-planters:			
55	Set up	D	1	A
56	K. D. flat in bundles		1	A
57	Cultivators, iron or wood:			
58	Set up	D	1	A
59	K. D. flat in bundles		1	A
60	Dust-collectors and cockle-separators actual weight		1½	A
61	Engines farm, portable, minimum weight 5,000 pound-each		1	A
62	Engines, traction, minimum weight 10,000 — each		3	A
63	Evaporators, sugar		1½	A
64	Fanning mills:			
65	Set up	D	1	A
66	K. D. flat in bundles		1	A
67	Feed and ensilage cutters:			
68	Set up		1	A
69	K. D		3	A
1688				
70	Grain-heading machines K. D. in pieces		3	A
71	Harrows, N. O. S.:			
72	Set up with teeth		1½	A
73	K. D. and tied in bundles teeth removed		2	A
74	Folded, rolled or flat, teeth in but sharp points not exposed		2	A
75	Harrows, disk:			
76	Set up		1½	A
77	In sections, levers, irons and seats removed, and tied in bundles		2	A
78	Harrow frames without teeth K. D. in bundles		3	A
79	Harvesting machines, self-binding harvesters:			
80	Set up		1	A
81	K. D		3	A
82	Hay-carriers		2	A
83	Hay-carrier tracks in bundles		3	A
84	Hay forks, horse		2	A
85	Hay or straw stackers or rickers, hay-loaders and sweep-rakes:			
86	Min. weight 4,000 pounds		1	A
87	K. D. flat tied in bundles, wheels racked actual weight		1	A

88	Hay-tedders:		
89	N. O. S.	D 1	A
90	K. D. flat and tied in bund-es	1	A
91	Hay racks in bundles	2	A
92	Horse powers	1	A
93	Horse-tread powers K. D	3	A
1689			
94	Horse rakes wood or iron	1	A
95	Manure and fertilizer spreaders:		
96	Set up	1½	A
97	K. D.	1	A
98	Mills, cane, cider and cob and combined corn and cob.	2	A
99	Mowers, N. O. S.:		
100	Set up	1	A
101	Wheels on or off, other detachable parts removed	3	A
102	Mower-knife grinders:		
103	Set up, boxed or created	1	A
104	K. D. boxed or created	2	A
105	Pea-hullers:		
106	Set up min. weight 5,000 pounds	1	A
107	Taken apart and loaded in box car actual weight	1	A
108	Plows, N. O. S.:		
109	Set up	1	A
110	K. D. in bundles	2	A
111	K. D. boxed or crated	3	A
112	Plow, gang, shovel, and sulky:		
113	Set up	D 1	A
114	K. D. flat and tied in bundles	3	A
115	Plows, listing, riding:		
116	Set up	D 1	A
117	K. D. flat and tied in bundles	3	A
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118	Plows, listing and walking:		
119	Set up	1	A
120	K. D. in bundles	2	A
121	K. D. boxed or crated	3	A
122	Potatoe-diggers:		
123	Set up	D 1	A
124	K. D. in bdls	1	A
125	Potatoe-planters taken apart, dismounted, small parts tied in bdls	1	A

126	Pressed hay:			
127	Set up	D	1	A
128	Detachable parts removed		3	A
129	Pressed hay and hay bale ties, wire		..	A
130	Rakes, sulky, horse:			
131	Set up	D	1	A
132	K. D. flat in bundles		1	A
133	Reapers:			
134	Set up		1	A
135	Wheels on or off, detachable parts removed		3	A
136	Rollers field		3	A
137	Seed-drills (seeders), N. O. S.:			
138	Set up	D	1	A
139	K. D.		1	A
140	Stalk-cutters:			
141	Rollers set up	D	1	A
1691				
142	Roller K. D. in pieces		1	A
143	N. O. S.		1	A
144	Thresher, separator, clover-huller, or corn-sheller:			
145	One, set up, with or without horse power, requiring flat car, min. wt. 5,000 lbs		1	A
146	Two, with or without horse power, C. L. rate		..	A
147	One steam power C. L. rate		..	A
148	K. D. loaded in box car, actual weight		1	A
149	Tobacco transp-anters:			
150	Set up	D	1	A
151	K. D. flat and tied in bundles		1	A
152	Twine, binding, for harvesters		2	A
153	Wagons, tank, for farm engines:			
154	S. U. min. wt. 3,000 — each		1	A
155	K. D. in pieces loaded in box car, actual weight		1	A
156	Wire, binding, for harvesters, or spools, boxed		4	A
157	Agricultural implements, parts of, at owner's risk, released:			
158	Clevises, in boxes or barrels		4	A
159	Iron master or bull wheels, N. O. S.		2	A
160	Iron castings, loose		1	A
161	Iron castings, in boxes or barrels		4	A
162	Ratings given above for iron castings will apply on cast-iron parts of agricultural implements.			

163	N. O. S.:		
164	Sweeps or levers	2	A
165	Spring keys	2	A
1692			
166	Steel cutter-bars, in bundles	1	A
167	All other parts N. O. S	1	A
168	Coulter plates and rolling coulters:		
169	In bundles	3	5
170	In boxes or casks	4	5
171	Plow beams, iron or steel	4	5
172	Plow beams and handles, wooden	3	B
173	Plow points, shares, lays, wings, or mould-boards, iron or steel:		
174	N. O. S	3	5
175	In boxes, crates or casks	4	5
176	Plow points, plow handles, singletrees, doubletrees and whiffletrees	..	A
177	Rake teeth, iron or wood, in bundles	3	4
178	Reaper and mower knife sections, boxed	1	5
179	Springs for agricultural implements, in boxes or barrels	3	..
180	Teeth, cultivator, drag, or harrow:		
181	In barrels or boxes	4	5
182	In bundles	3	5
183	Wheels, agricultural implements, N. O. S	3	5
184	Agricultural implements, hand:		
185	Corn-planters, hand, released	1	3
186	Grain cradles:		
187	S. U	3 t 1	A
188	K. D. in bundles	1	A
189	K. D. and completely boxed	2	A
1693			
190	Corn hooks and knives:		
191	In bundles O. R	1	3
192	In boxes	2	3
193	Grain scoops	2	3
194	Forks, hay and manure	2	3
195	Forks, barley, wood or iron	1	3
196	Hay knives:		
197	In bundles O. R	1	3
198	In boxes	2	3

199	Hoes, N. O. S.	2	3
200	Hoes, eye, in barrels	3	3
201	Potato hooks, in bundles	2	3
202	Potato-planters, handles taken off, released	1	3
203	Rakes:		
204	Wooden	1	3
205	Iron	2	3
206	Reaping sickles:		
207	In bundles O. R.	1	3
208	In boxes	2	3
209	Roller, garden, and lawn scythes:		
210	In bundles	1	3
211	Boxed	2	3
212	S-ythe snaths	1	3
213	Scythe stones	3	3
1694			
214	Shovels and spades	2	3
215	Albums, boxed	..	1
216	Animals, alive, N. O. S. in boxes or cages, released	3 t 1	..
217	Animals, stuffed, in boxes, O. R. released	3 t 1	..
218	Animal food:		
219	N. O. S.	2	5
220	In boxes or barrels	4	5
221	Antimony, in boxes or barrels	2	..
222	Apple-driers	D 1	..
223	Apple-parers	..	2
224	Aquariums, O. R. boxed	D 1	..
225	Artists' materials.		
226	Camera stands, photographers':		
227	Set up crated or wrapped	D 1	..
228	K. D. tied in bundles	1½	..
229	K. D. boxed or crated	1	..
230	Easels, common pine, in white, K. D. crated	3	..
231	Stretcher frames:		
232	Artists' K. D. crated	3	..
233	Common pine, K. D.	3	B
234	Artists' materials, N. O. S. boxed O. R.	1	..
235	Ash-sifters, released	1	..
236	Awnings and awning frames	1	3

237 B.

1695

238	Babbitt metal	3	4
239	Baby-jumpers	1	..
240	Bagging:		
241	Bags, cotton, grain or salt, in bales or trusses	2	3
242	Bagging and bags, clayed	3	5
243	Bags, burlap, gunny or jute, in bales or bundles	4	5
244	Bags, planters, picking	4	5
245	Burlaps	4	5
246	B 1	2	..
247	Bagging, for baling cotton, in rolls	4	5
248	Bagging or bags N. O. S. in bales	2	3
249	Jute and jute butts, in bales O. R. of fire	3	B
250	Jute webbing in bales O. R	2	..
251	Bark sassafras	1	..
252	Bark, slippery elm, in bundles and bales	3	..
253	Bark tanners'	3	D
254	Barometers, boxed O. R	D 1	..
255	Barrel racks, for grocers' use	2	..
256	Barrows or vans, baggage:		
257	Set up	1½	A
258	K. D	1	A
259	Baskets:		
260	Baskets, in cases, min. wt. 10,000 lbs	D 1	4
261	Baskets, not nested, in bundles, min. wt. 10,000 lbs.	D 1	4

1696

262	Baskets, N. O. S. nested in bdls. min. wt. 10,000 lbs.	D 1	4
263	Baskets, overhandled, in bundles, with ends placed in each other min. wit. 10,000 lbs	4 t 1	4
264	Baskets, overhandled, covers and handles taken off and packed separately, baskets nested in		
265	bundles, min. wt. 10,000 lbs	D 1	4
266	Baskets, paper, fruit, or peach min. wt. 10,000 lbs	3 t 1	4
267	Baskets, stave, split, rattan or willow nested in bdls. or crates min. wt. 10,000 lbs	1½	4
268	Baskets K. D. flat in bundles, min. wit. 10,000 lbs	3	4
269	See also woodenware.		
270	Basket bottom-, wooden:		
271	N. O. S	1	..
272	In boxes, barrels, or crates	2	..
273	Basket material, splint, in bundles	2	B
274	Battery wagons, with or without tools and supplies for same enclosed O. R	1	..

275 Beehives:
276 N. O. S. prepaid ..... D 1
277 Nested 1
278 K. D. 3
279 K. D. and honey-box lumber ....
280 Bees in hives O. R. 3
281 Not taken in L. C. L.
282 Beer-coolers, metal released:
283 In box cars 1½
284 If flat car is required, min. wt. 5,000 lbs. 1
285 Ratings on beer-coolers, metallic, are applicable on
the article used in breweries, and not on
286 ice boxes or refrigerators for saloons.
1697
287 Bells:
288 Iron O. R. 3
289 N. O. S. O. R. 2
290 Bellows, N. O. S. O. R. 1
291 Billiard balls boxed 1
292 Billiard tables:
293 Boxed or crated O. R. 1
294 Boxed or crated O. R. returned to manufacturer for
repairs one-half-tarriff rates.
295 Billiard tables, slates and slabs, boxed or crated O. R. 2
296 Billiard tables and billiard-table slates and slabs, not
boxed or crated, not taken.
297 Bins, flour, wooden:
298 S. U. 2
299 K. D. boxed or crated 3
300 Bins, flour, tin, boxed or crated 1
301 Bird cages:
302 Boxed ..... D 1
303 Nested boxed 1
304 Bird gravel or sand, in packages 2
305 Birds stuffed, in boxes, released .. .. 3 t 1
306 Blackboards:
307 Blackboards, slate or wooden O. R. 4
308 Liquid slate, for blackboards, in cans boxed or in
wood, O. R. 4
309 Paper and cloth, silicated, for blackboards, in bundles. 1
1698
310 Wood-pulp boards, silicated ..... 3.

311	Blacking:		
312	Blacking, harness or shoe, in glass or stone, packed in boxes or barrels, O. R	1	4
313	N. O. S. in boxes or kegs	2	4
314	Blacking N. O. S. in boxes	2	..
315	Blocks, burr	4	..
316	Boats:		
317	Boats N. O. S	3 t 1	A
318	Boats, (except racing shells) and steam-launches	..	A
319	Canvas boats, folded, in rolls or packed in chests	1	..
319	Catamaran boats, taken apart, as follows:		
320	Hulls	3 t 1	A
321	Swans boxed or crated	D 1	A
322	Propelling wheels	1	A
323	Oars	1	..
324	Racing shells	4 t 1	A
325	Yachts, steam O. R	..	A
326	Bone-ash	4	B
327	Bone-black	2	4
328	Bone, cuttle-fish, in packages	1	..
329	Bone-dust	4	B
330	Books	1	..
1699			
331	Boots and shoes and findings.		
332	Boots and shoes:		
333	Boxed	1	..
334	In trunks (trunks released)	D 1	..
335	Boot crimps	1	..
336	Lasts in boxes or barrels	2	..
337	Lasts, in rough, in bulk	..	A
338	Leather boot-legs and shoe-uppers	1	..
339	Rivets tubular in boxes bbls. or kegs	2	..
340	Shoe-dressing, in glass, boxed O. R	1	..
341	Shoe-findings N. O. S	1	..
342	Shoe-pegs, in bags	1	..
343	Shoe-pegs, in boxes, bbls. or kegs	2	..
344	Bottles:		
345	Bottles paper in boxes	1	4
346	Bottles, glass, in boxes, bbls. crates or casks	3	5
347	Bottles, glass in bulk	..	5
348	Demijohns, empty O. R	D 1	4
349	Demijohns, boxed or in casks O. R	1	4
350	See also glassware.		
351	Bottle-stoppers, metal, boxed	2	..

352	Bottle-wrappers:	
353	Paper, straw or wood, flat in barrels, boxes or bundles	3
354	N. O. S. flat, in boxes or bundles, P. P	2
1700		
355	Boxes.	
356	Band-boxes:	
357	N. O. S	3 t 1
358	Boxed	D 1
359	Berry boxes:	
360	Nested tied in bundles	1
361	K. D	..
362	K. D. in crates	3
363	Boxes, hardwood N. O. S. nested boxes	1
364	Cigar boxes:	
365	Empty in bundles or crates O. R	D 1
366	Wooden, boxed O. R	1½
367	K. D. flat in packages	2
368	Jewelers' boxes, paper or plus- boxed O. R	D 1
369	Letter boxes	1
370	Paper or pasteboard boxes:	
371	Nested boxed or crated	D 1
372	Not nested boxed	3 t 1
373	Min. wt. 12,000	3
374	K. D. flat in bundles, crates or boxes	3
375	Pasteboard, insulating material, in bundles crates or boxes	3
376	Pill boxes in casks or boxes	D 1
377	Tin cracker boxes, empty:	
378	Released O. R	D 1
379	Boxed, crated or in jackets O. R	1
380	Min. wt. 15,000	4
1701		
381	Tin ointment boxes in boxes or barrels	1
382	Tobacco boxes, hardwood	1
383	Wooden boxes N. O. S. and crates (new) empty	D 1
384	Wooden boxes, turned in barrels boxes or crates	2
385	Brass articles:	
386	Blanks, plates, skrews, bolts, rivets, sheets, flues, rods, tubing (brass), nails, rolls, tubing	
387	(bronze) N. O. S. O. R	1
388	In boxes, barrels, casks or kegs	2

389	Brass and copper scrap	3	4
390	Castings	2	..
391	Chain	2	..
392	Faucets	2	..
393	Fenders, stove or hearth in boxes, barrels or crates	2	..
394	Fittings in boxes, barrels or kegs	2	..
395	Ingots O. R.	3	4
396	Railing boxed O. R.	1	..
397	Shovels, tongs, pokers and stand for same, (fire-setts) packed	2	..
398	Vessels:		
399	O. R.	1	..
400	In boxes or barrels O. R.	2	..
401	Brattice cloth, in bales or rolls	4	5
402	Bread:		
403	N. O. S.	1	..
404	Hard bread	2	4
1702			
405	Brick:		
406	Bath brick in barrels or boxes	4	B
407	Brick for stove lining:		
408	Loose O. R.	1	..
409	In boxes or barrels	4	..
410	Common brick N. O. S.	4	E
411	Enamel brick:		
412	In barrels or boxes	4	..
413	In car-loads	..	B
414	Loaded in cars with common and pressed brick	4	..
415	Fire-brick (except stove lining) O. R.	4	D
416	Fire-brick and fire-clay O. R.	..	D
417	Paving brick	..	E
418	Pressed brick O. R.	4	D
419	Porous brick	4	E
420	Brick drying shelves (shooks or pellet boards)	3	C
421	Brick molds, wooden:		
422	N. O. S.	1	..
423	In boxes, barrels or crates	2	..
424	Bridge-builders' outfit, including horses, tools, wagons &c. second hand	..	A
425	Bridge materials:		
426	Iron	4	5
427	Iron and wooden	..	5
428	Wooden	4	D

1703

429	Brittann-a ware in boxes or barrels, released	..
430	Bronze castings:	
431	For pulp-mill machinery unfinished weighing 100 pounds or over	4
432	N. O. S. O. R. B.	2
433	Broom-corn:	
434	Pressed in bales O. R.	1
435	Pressed in bales O. R. min. wt. 12,000 lbs	..
436	Loose not taken.	
437	Brooms:	
438	In bales racks or bundles	1
439	Min. wt. 10,000 lbs	..
440	Brooms and brushes manufactured from broom-corn:	
441	In packages	1
442	In packages min. wt. 10,000 lbs	..
443	Broom racks:	
444	Set up	D 1
445	K. D. flat, boxed or crated	2
446	Brushes, hair, clothes or tooth in boxes	1
447	Brushes N. O. S.:	
448	In bundles	1
449	Boxed	2
450	Brush blocks	3
451	Brush for street-sweeping machines:	
452	In bundles	2

1704

453	Min. wt. 16,000	..
454	Buckets, ore, wooden or iron	1
455	Bullion west-bound released to valuation not exceeding $100 per ton	4
456	Burial cases or coffins and grave vaults:	
457	Crystal or glass (metal frame, glass panels) boxed or released	1½
458	Cement or wood:	
459	Wrapped released	1½
460	Wrapped and crated released	1

461	Boxed released	2	3
462	Metallic boxed released	1½	3
463	Burial cases not released	*B* 1	..
464	Coffin trimmings:		
465	Metal plain boxed	2	..
466	Plated, boxed released	1½	..
467	C.		
468	Cabinets:		
469	Drug and dye cabinets, boxed O. R.	1	..
470	Filing cabinets boxed or crated released	1	..
471	Thread cabinets:		
472	Empty boxed O. R.	1	..
473	Filled with thread boxed O. R.	1	..
474	Filled with thread boxed C. R.	3 t 1	..
475	Cages, menagaries wood and iron without glass	1	..
476	Calf-weaners boxed	2	..
1705			
477	Candy-coolers, iron, (heavy castings)	4	..
478	Can-s	1	..
479	Cannons and caissons	2	..
480	Can jackets:		
481	Wooden min. wt. 10,000 lbs	1	4
482	In boxes barrels or crates min. wt. 10,000	2	4
483	Cans:		
484	Fruit cans, tin, crated min. wt. 15,000 lbs	2	4
485	Cans pasteboard with tin tops and bottoms N. O. S. O. R. min. wt. 15,000 lbs	1	4
486	Boxed or crated O. R. min. wt. 15,000 lbs	1	4
487	Nested O. R. in boxes, barrels, or crates min. wt. 15,000 lbs	2	4
488	Cans, railroad, milk, shipping min. wt. 15,000 lbs	1	4
489	Cans, tin (N. O. S. and galvanized iron, empty):		
490	N. O. S. O. R. min. wt. 15,000 lbs	D 1	4
491	Boxed or crated or in wooden or metal jackets O. R. min. wt. 15,000 lbs	1	4
492	Nested O. R. in boxes, barrels or crates min. wt. 15,000 lbs	2	4
493	Oil cans, paper, metal-trimmed:		
494	N. O. S. O. R. min. wt. 15,000 lbs	1	4
495	Boxed or crated O. R. min. wt. 15,000 lbs	1	4
495	*Boxed or crated O. R. min. wt. 15,000 lbs*	*1*	*4*

496	Oil cans, glass in tin or wooden jackets, packed in cases O. R.	2
497	Capstans	2
498	Carbon clinker (taking from gas retorts) in boxes, barrels, hhds. or sacks	4 See coke ta
599	Carpet binding metallic in boxes or barrels	2
1706		
500	Carpets and carpeting:	
501	In roles or bales	D 1
502	O. R. chafing and so receipted for	1
503	In boxes	1
504	Carpets, exhibiters, boxed O. R.	1
505	Carpet linings, sowed:	
506	In bales compressed	1
507	In bales compressed and paper felt for carpet lining.	..
508	Carpet-lining straw paper	4
509	Carpet-sweepers, boxed released	2
510	Carpet warp	1
511	Carriers, new, empty:	
512	Bottles carriers and cases	4
513	Carboys O. R.	2
514	Carriers N. O. S.	1
515	Chicken coops:	
516	Empty	D 1
517	Compactly folded O. R.	2
518	Kegs, powder, wooden or iron, empty	1
519	Powder magazines N. O. S.	1
520	Quicksilver flasks	4
521	Soda water retainers metal	1
522	Spools, barbed wire K. D.	3
523	Spools or bobbins wooden for woolen mills boxed	2
524	Carriers empty returned prepaid or guaranteed subject to rule 18.	
1707		
525	Ale, beer, beer tonic, mineral water, porter in packages at following estimated weights O. R. one-	
526	half fourth-class rates:	
527	Barrels 100 lbs. each.	
528	Half barrels 55 lbs. each.	
529	Quarter 30 lbs. each.	
530	Eighth barrels 20 lbs each.	
531	Bottles in cases.	
532	Two doz. qts. 50 lbs. per case.	
533	Four doz. qts. 90 lbs. per case.	

534	Two dozen pints 35 — per case.		
535	Three dozen pints 50 lbs. per case.		
536	Four dozen pints 75 lbs. per case.		
537	Bottles in casks:		
538	Six dozen quarts or ten dozen pints 125 lbs. per cask.		
539	Acid and am-onia tanks or drums	4	..
540	Bags N. O. S. second-hand	4	..
541	Bags or sacks:		
542	Cement, cotton seed, fertilizer, grain, plaster, ore, one-half fourth class.		
543	Bottles N. O. S. in boxes, barrels or casks O. R. actual weight one-half fourth class.		
544	Butter crocks or jars boxed	4	..
545	Butter tubs and firkins	4	..
546	Cans in boxes, barrels or crates	4	..
547	Carboys	4	D
548	Cheese boxes	4	..
1708			
549	Cider barrels	4	..
550	Coil or reels wood or iron	4	..
551	Coops	4	..
552	Cracker boxes	4	..
553	Cracker boxes tin boxed	4	..
554	Crates	4	..
555	Egg carriers or cases	4	..
556	Fish boxes or cases	4	..
557	Fruit baskets, boxes and crates	4	..
558	Fruit-tree boxes	1	..
559	Garden-seed boxes	1	D
560	Grocery boxes	4	..
561	Iron acid drums	..	5
562	Iron drums	4	..
563	Iron oil barrels	4	..
564	Iron spools, reels, bobbins and cases returned to paper mfg.'s one-half fourth class.		
565	Kegs, powder wooden or iron	4	..
566	Liquor packages wooden	4	..
567	Milk and cream cans	4	..
568	Meat boxes or carriers	4	..
569	Meat cylinders	4	..
570	Oil cases	4	..
571	Oyster pails	4	..
572	Powder magazines	4	..
1709			
573	Railway trucks (used to transport rolling stock)	..	D

576	Reels cable	..	
577	Safe harness iron	4	
578	Spools, wooden returned to paper mills one-half fourth class.		
579	Spools wooden returned to woolen mills	4	
580	Sheet-lead carriers (boxes)	4	
581	Vinegar barrels	4	
582	Wrap beans	3	
583	NOTE.—Charges for any shipment of carriers returned should not exceed what would accrue		
584	by application ratings shown for the same packages new.		
585	Cars, photograph	..	A
586	Carts, swill (barrel):		
587	Set up on wheels	1½	A
588	Taken apart	1	A
589	Cases metallic for screw-bolts and shot in boxes or barrels	3	..
590	Cases, screws and bolts, wooden boxed or crated	1	..
591	Cases, *wact*, glass, boxed or crated released	1	..
592	Cash railways boxed	1½	..
593	Castors rollers packed	2	..
594	Cattle stanchions in bundles	2	B
595	Cedar chests crated	2	..
596	Cement and manufacturers of same:		
597	Cement, asbestos	4	5
1710			
598	Cement, building, in barrels:		
599	Cement, Portland in barrels min. wt. 400 lbs. per barrel	4	C
600	Cement, domestic in barrels min. wt. 285 lbs. per barrel	4	C
601	Cement, building in sacks	4	C
602	Cement, mortar-color in barrels	4	C
603	Cement, fruit can	2	4
604	Cement well tubing in crates or hhds	4	B
605	Cement window caps, sills, chimney tops, wall coping and similar articles for building pur-		
606	poses manufactured from cement O. R.	4	B
607	Cement N. O. S	2	..

608 Cerial and cerial products.

609 Barley, pearl:

610 In sacks... .... 2 5
611 In boxes barrels or kegs.... .... 3 5
612 Barley, sprouted..... ..... 4 C

613 Bran or shorts and malt sprouts:

614 In bags..... . ..... 4 corn tarriff rates
615 In bulk.... ..... corn tarriff rates
616 Bread meal..... .... 3 4

617 Buckwheat:

618 In bags or boxes..... ..... 4 wheat tariff rates
619 In bulk..... ..... wheat tariff rates

620 Corn-cobs:

621 In sacks or boxes..... 2 ..
622 In bulk.... .... E

1711

623 Corn flake (cerealine):

624 In sacks O. R.... .. .. 2 5
625 In boxes, barrels or kegs..... ... . 3 5
626 Corn malt..... ..... 4 C

627 Corn meal, brewers' meal, and maized:

628 In paper sacks or boxes..... 3 flour tariff rates and weights
629 In cotton sacks..... 4 flour tariff rates and weights
630 In barrels..... 4 flour tariff rates and weights

631 Corn, pop:

632 In the ear..... ..... 3 5
633 Shelled, in bxs., brls., or sacks..... ..... 1 ..
634 Corn, popped.. .... 1 ..
635 Corn, seed, in boxes or barrels..... 3 ..
636 Corn, sweet, shelled in boxes or barrels..... 3 ..
637 Corn stalk pith, in boxes, sacks or crates..... D 1 ..

638 Cracked or rolled wheat:

639 In sacks, O. R..... ..... 2 5
640 In boxes, barrels or kegs..... .... 3 5
641 Crackers, and fruit biscuit 2 4
642 Cracker meal..... .. 3 4
643 Farina..... .... 2 ..

644 Feed:

645 In bags..... ..... 4 corn tariff rates
646 In bulk..... .... corn tariff rates

1712

647 Flour, N. O. S., and potato flour.

648 In pails, covers well secured:

649 In brls. 200 lbs. per barrel.... 4 flour tariff weights and rates
650 In barrels 200 lbs. per brl.... 4 flour tariff rates and weights
651 In cotton sacks or boxes, O. R. of wet and waste actual
652 weight.... ..... 4 flour tariff rates and weights
653 In paper sacks, O. R. of wet and waste, actual weight
3 flour tariff rates and weights
654 Flour N. O. S. and feed..... flour tariff rates and weights

655 Flour, buckwheat:

656 In barrels, actual weight..... 4 wheat tariff rates
657 In cotton sacks or boxes, O. R. of wet and waste,
actual weight.... .... 4 wheat tariff rates
658 In paper sacks, O. R. of wet and waste, actual weight
3 wheat tariff rates
659 Grain N. O. S. including seed corn (L. C. L. taken in
bags only)..... 4 See tariff

660 Grain screenings:

661 In bags..... ..... 4 corn tariff rates
662 In bulk ..... corn tariff rates

663 Grits:

664 In sacks..... ..... 2 5
665 In boxes, barrels or kegs 3 5

666 Hominy:

667 In sacks..... 2 5
668 In boxes, barrels or kegs 3 5
669 Malt..... 4 0
670 Oat hulls or oat dust..... 4 corn tariff rates

1713

671 Oatmeal and rolled oats:

672 In paper sacks O. R. actual gross weight.....
2 flour rates and weights
673 In cotton sacks O. R. of wet and waste, actual gross
weight..... 3 flour tariff rates and weights
674 In boxes or kegs O. R. of wet and waste, actual gross
weight .. .. 4 flour tariff rates and weights
675 In barrels of half-barrels, actual gross weight.....
4 flour tariff rates and weights

676 Rice bran, hulls, or chaff:

677 In bags..... ..... 4 corn tariff rates
678 In bulk..... ..... corn tariff rates

679	Rye, rolled:		
680	In sacks O. R. of wet and waste, actual gross weight..	2 flour tariff rates and weights	
681	In boxes or kegs, actual gross weight.....	3 flour tariff rates and weights	
682	In barrels or half-barrels, actual gross weight.....	4 flour tariff rates and weights	
683	Wet feed or brewers' grains:		
684	In bags.....	4 corn tariff rates	
685	In bulk.....	corn tariff rates	
686	Check perforators, boxed.....	1	..
687	Chemicals.		
688	Acids:		
689	Dry, in boxes or barrels, O. R.....	1	..
690	In glass bottles, boxed O. R.....	1	A
691	N. O. S. in carboys, O. R. P. P. or guaranteed.....	D 1	A
692	N. O. S. in iron drums or in wood, O. R.....	2	A
693	In tanks cars furnished by shipper.....	..	A
694	Acids and marble dust O. R.....	..	A
1714			
695	Ammonia:		
696	In bottles, packed in sawdust in barrels.....	1	A
697	In carboys O. R. prepaid or guaranteed	B 1	5
698	In iron drums O. R.....	3	5
699	In cans, boxed O. R	1	5
700	In cans, not boxed, not taken.		
701	Dry in boxes or barrels.....	2	..
702	Anhydrous, liquid in iron cylinders boxed or crated.	1	2
703	Sulphate of.....	1	..
704	Argols	4	..
705	Ash, pearl, or soda:		
706	In barrels or casks.....	4	5
707	In cans boxed.....	3	4
708	Potash in barrels or casks or in cans boxed.....	4	5
709	Barilla	3	..
710	Bleach, bleaching salts or bleaching powder (chloride of lime) in barrels, boxes or casks	4	5
711	Blue vitr-ol	4	5
712	Borax.....	3	4
713	Brimstone:		
714	In boxes or kegs.....	2	C
715	In sacks, barrels or hhds.....	4	C
716	Brimstone and sulphur	..	C
717	Calcium chloride of.....	4	5

1715

718 Calcium solution:

719	In barrels	3	..
720	In tanks, cars or in barrels	..	D

721 Carbon, bisulphide of:

722	In cans boxed	1	..
723	In drums O. R. L	2	4
724	Carboys and contents N. O. S. O. R	D 1	..
725	Copperas	4	5

726 Gas liquor:

727	In barrels	4	D
728	In tank cars, furnished by shipper	..	D

729 Rating given on gas liquor should be confined to liquor
730 obtained as a biproduct in the manufacture of gas. It being the water used in clarifying gas after it has become saturated with gas fumes.

731	Lime bisulphide of in barrels	3	D
732	Lime carbonate of in barrels or hhds	4	5
733	Lime phosphate of in barrels or boxes	4	..
734	Lime water in barrels	3	D
735	Lye concentrated	4	5

736 Magnesia, carbonate of:

737	In boxes	1	5
738	In bags, barrels or casks	3	5
739	Manganese black oxide of in barrels or casks	4	5
740	Phosphorus only taken in tins hermetically sealed and packed in whiting O. R	D 1	..
741	Potash cyanide of crude in boxes	4	..

1716

742 Sal-soda:

743	In cans boxed	3	5
744	In boxes, barrels or casks	4	5
745	Salt cake	4	..

746 Soda:

747	Bicarbonate of	3	4
748	Co-stic in tin cans boxed or in drums or in pails	4	5
749	Hyposulphate and sulphate of (Glauber's salts)	4	5
750	Nitrate of	4	5
751	Silicate of	4	5
752	Soda and sal-soda	..	4

753	Sulphur:		
754	In boxes or kegs	2	C
755	In sacks, barrels or hhds	4	C
756	Tartarine in iron drums or in wood	2	A
757	Zinc:		
758	Oxide of	4	5
759	Sulphate of	3	..
760	Chimneys, earthenware in sections	4	B
761	China and Japan goods:		
762	In cases O. R	1	..
763	In baskets O. R	D 1	..
764	China and majolica ware:		
765	In boxes, barrels, casks or tierces O. R	1	..
766	In crates or hhds. O. R	2	..
1717			
767	Shoots, dehorning cattle:		
768	N. O. S	1	B
769	K. D	3	B
770	Cigars and cigarettes:		
771	Boxed not corded strapped and sealed	D 1	..
772	Boxed corded strapped and sealed	1	..
773	Cigar-lighters boxed	1	..
774	Cigar molds wooden in boxes barrels or crates	2	..
775	Cinders	..	E
776	Cistern-cleaners	1	..
777	Cloak racks or hangers boxed or crated	2	..
778	Clocks and weights boxed O. R	1	..
779	Cloth-rollers boxed or crated R. E. L	1	..
780	Clothes-line wire	3	..
781	Clothes-line reels	2	A
782	Clothing:		
783	Clothing boxed	1	..
784	Clothing (except personal effects) in sample trunks released	1	..
785	Clothing N. O. S. in bales not taken.		
786	Overalls in bales O. R. chaffing.		
787	Coco-beans	2	..
788	Coco-butter	1	..
789	Coco-nut shells	4	C
790	Coffee urns restaurant nickle-plated boxed released	1½	..

1718

791	Compasses pocket boxed O. R.	D	1
792	Condition powders (animal) O. R.		1
793	Cones fir in sacks		1
794	Confectionery.		
795	Candy, confectionery, and chewing gum:		
796	N. O. S		1
797	At an agreed valuation of ten cents per pound and so receipted for		3
798	Confectioners' paste in cans boxed or crated		2
799	Paste, almond in cans boxed or crated		2
800	Soda tablets effervescent agreed valuation ten cents per pound and so receipted for		3
801	Coolers, water boxed O. R		1
802	Cooling-room material (doors frames and sections)		3
803	Cooperage.		
804	Barrels, empty, as follows:		
805	Casks large	D	1
806	Beef, cider, liquor, oil, port, vinegar barrels, min. wt. 75 lbs. each		1
807	Apples, flour, barrels 30 lbs. each		1
808	Hogsheads, min. wt. 130 lbs. each		1
809	Tierces 100 lbs. each		1
810	Beer barrels and kegs (new):		
811	Barrels 90 lbs. each		1
812	Half barrels 50 lbs. each		1
813	Quarter barrels 30 lbs. each		1
814	Eighth barrels 18 lbs. each		1

1719

815	Barrels, casks, tierces and vats, also kegs of any description when shipped with barrels tierces casks		
816	or vats empty min. wt. 7,000 lbs		
817	Aggregate charge should not exceed that which would accrue by the use of class *D* rates		
818	(min. wt. 2,000 lbs.).		
819	Barrels and tierces empty old		I
820	Aggregate charge should not exceed that which would accrue by the use of fourth-		
821	class rate (min. wt. 7,000 lbs.).		
822	Butter tubs		B
823	Cheese-box stuff		3 B

824	Cisterns:		
825	Wooden	D 1	D
826	Wooden K. D. O. R.	3	B
827	Coopers' flags in bundles	1	A
828	Drums wooden K. D.	4	D
829	Hoop or hop poles	4	D
830	Hoops wooden or hoop poles	..	D
832	Hoops wooden shaved or coiled	4	D
833	Staves, heading, head-lining and wooden hoops N. O. S.	4	D
834	Butter-tub stuff	3	D
835	Wired staves in rolls and heading and hoops for woven-wire bbrs	4	D
836	Copper articles:		
837	Bolts, bottoms, blanks, flues, nails, plates, rivets, rods, rolls, screws, sheets, tubing O. R.	1	4
838	In boxes barrels or casks	2	4
1720			
839	Copper, ingot or pig:		
840	N. O. S.	2	4
841	In boxes or casks	3	4
842	Copper chain	..	2
843	Copper vessels:		
844	O. R.	1	..
845	In boxes or barrels O. R.	2	..
846	Copper N. O. S. in boxes	2	4
847	Cordage.		
848	Lath yarn:		
849	Twisted in rolls ¼ inch or over in diameter and coiled	..	4
850	Coiled (single stand)	..	2
851	Marline in coils	..	4
852	Rope, N. O. S.:		
853	In bundles	1	4
854	In bales, boxes or barrels	2	4
855	¼ inch or over in diameter in coils or on reels	4	4
856	Rope old, in bales, boxes, barrels or crates	4	D
857	Twine:		
858	In bundles	1	4
859	In barrels, bales or boxes	2	4
860	Cork N. O. S. or corks	1	..
861	Cork fenders in packages or bundles securely tied	1	..
862	Cork ground or granulated	4	E
863	Cork shavings	D 1	E

1721

864	Cornice and bracket, copper, galvanized iron or zinc released	3 t G
865	Nested and racked released.	
867	C. L. or when flat car is required O. R. released min. wt. 10,000 lbs	..
868	Corn-poppers:	
869	O. R	D 1
870	Nested boxed	1
871	Cosmoline in glass or cans boxed	1
872	Cotton in bales or sacks	1
873	Cotton-seed cake meal and stock	4
874	Cotton-seed hullers	2
875	Cracker-box covers glass in boxes barrels or crates	2
876	Creamery and dairy products and supplies.	
877	Butter, butterine, and butter grease, at O. R.:	
878	In crocks	D 1
879	In crocks or jars or in glass box-	2
880	In wood or tin	2
881	In hermetically sealed cans boxed	3
882	Butter, butter grease, butterine, cheese, dressed poultry, eggs	..
883	Butter-tub cover fast-ners tin strap and tack combined	2
884	Butter-workers:	
885	Set up	1½
886	K. D	1
887	Cheese in boxes tubs or casks	2
888	Cheese loose not taken.	

1722

889	Churns, factories, gudgeons and wheels detached and crated separately O. R	2
890	Creameries used for refrigerating cream:	
891	L. C. L	2
892	Min. wt. 16,000 lbs	..
893	Cream-separators detachable parts removed boxed or crated O. R	1
894	Creamery and cheese factory machinery, consisting of—	
895	Belting	..
896	Boilers	..

897	Butter-workers		..	A
898	Cheese presses		..	A
899	Churns and crane irons		..	A
900	Cream setters and separators		..	A
901	Cream-testing machine		..	A
902	Curd mills		..	A
903	Engines		..	A
904	Force-pumps		..	A
905	Milk-testing machines		..	A
906	Pipe and connections		..	A
907	Pulleys		..	A
908	Refrigerators, cream tanks and cans		..	A
909	Smokestacks		..	A
910	Shafting and hangers		..	A
911	Vats		..	A
912	Weighing cans		..	A
913	Curd		3	..
1723				
914	Milk, condensed:			
915	In cans boxed		4	5
916	In barrels or half-barrels O. R		4	5
917	Milk N. O. S. and cream in cans O. R		1	..
918	Milk food in cans boxed		1	..
919	Oleomargarine:			
920	In crocks O. R	D	1	3
921	In wood or tin O. R		2	3
922	Premost in boxes tubs or casks		2	3
923	Presses, cheese		1	..
924	Refrigerator cream tanks		2	..
925	Rennet:			
926	In glass or jugs, packed in open boxes kegs or jackets O. R	D	1	..
927	In glass or jugs, completely inclosed in boxes kegs or jackets released		1	..
928	Prepared in barrels or kegs		2	..
929	Tablets in boxes		1	..
930	Scale boards (for packing cheese)		2	A
931	Vats, cream or cheese.			
932	Set up:			
933	Legs and detachable parts taken off crated		1	D
934	Crockery, queensware, and earthenware, N. O. S.:			
935	In barrels or boxes		2	5
936	In crates, casks, tierces or hhds. O. R. B		4	5

1724

937 In bulk O. R. valuation not to exceed 500 per car to be so stated by shipper
938 in shipping receipt loaded by shipper and unloaded by consignee.....
939 Provisions for crockery in boxes, barrels or crates, casks, tierces and hhds. are appli-
940 cable on shipments in covered packages only.

941 Cuspidors, iron:

942 Released .....
943 Crated .....
944 In boxes, barrels or hhds.....
945 Custard, dry in glass box O. R.....
946 Cutlery boxed.....
947 Cylinders phonograph or graphophone paper or wax boxed O. R.....

948 D.

949 Deer horns boxed. .....
950 Dextrine in bags, barrels or boxes .....
951 Dictionary-holders and parts boxed.....
952 Dish-washing machine boxed or crated .....

953 Disinfectant-, dry.

954 In barrels:
955 N. O. S. O. R.....

956 Door-hangers:

957 Barn-door hangers iron boxed.....
958 Barn-door rails iron.....
959 Barn-door hanger rails wooden in bundles.....

1725

960 Door trusses and braces, iron:
961 N. O. S.....
962 Boxed or crated.....
963 Parlor door-hangers boxed.....

964 Drawer-, money:
965 Money drawers boxed or crated O. R. B.....
966 Cash-registers boxed O. R. B.....
967 Drawer-equalizers wooden in boxes or crates.....

968 Drugs:
969 Drugs and medicines N. O. S. O. R.....
970 Epsom salts.....
971 Gum camphor.....
972 Salts rochelle.....

973	Dry goods:		
974	Batting in boxes or bales O. R	1	..
975	Blankets, comfortables and quilts in boxes or bales O. R. chaffing	1	..
976	Bus*sels*:		
977	N. O. S. in boxes	D 1	..
978	Wire or steel nested in boxes	1	..
979	*Candles*	1	..
980	Dry goods, N. O. S.:		
981	In bales	B 1	..
982	In bales O. R. released	1	..
983	In boxes	1	..
984	In trunks (trunks released)	D 1	..
1726			
985	Enamel cloth and opa*t*-es boxed	1	..
986	Hemp yarn boxed	1	..
987	Raw silk boxed O. R	1	..
988	Wadding in boxes or bales O. R	1	..
989	Whalebone	1	..
990	Yarns N. O. S	1	..
991	Drying closets laundry hot air including stoves for same, closets K. D. and stoves crated,		
992	O. R	2	..
993	Dyestuffs:		
994	Dyestuffs N. O. S	1	..
995	Dyewoods	2	4
996	Ganbier (gum cutch or terra japonica)	3	..
997	Indigo	1	..
998	Logwood extracts:		
999	Liquid	1	4
1000	Solid	2	4
1001	London purple	4	..
1002	Madder	2	..
1003	Sumac	3	..
1004	E.		
1005	Egg-box stuff wooden in bundles or racks	4	B
1006	Egg-carrier fillings (straw board and wood)	4	B
1007	K. D. boxed:		
1008	Egg cases and carriers new	1	B

1727

1009	Eggs, at O. R.:			
1010	In baskets	B	1	..
1011	In patent carriers		2	3
1012	Packed in barrels or boxes P. P		2	3
1013	Egg yelks in barrels O. R		2	..
1014	Electrical appliances, machinery, and supplies:			
1015	Batteries, electric storage, wood or lead released		1	..
1016	Batteries galvanic boxed O. R	D	1	..
1017	Cable electric inclosed in lead pipe on reels		4	5
1018	Cable wire telegraph		4	5
1019	Car trucks electric motor		1	3
1020	Carbon points (electric light) boxed		1	3
1021	Conduits:			
1022	Interior insul-ting and fittings boxed crated or in barrels		1	3
1023	Uoderground (for electric wires) stone, clay or cement		4	D
1024	Wooden creosoted		3	5
1025	Dynamos		1	4
1026	Electric-light machinery consisting of arc-light globe frames		..	4
1027	Cross-arms		..	4
1028	Dynamo K. D. crated		..	4
1029	Dynamo parts K. D. boxed		..	4
1030	Engines insulators		..	4
1031	Pins wire		..	4
1032	Electric-light globes and bulbs or lamps in boxes or barrels O. R		..	1

1728

1033	Electric-light globes and bulbs or lamps glass not packed not taken.			
1034	Electric street mains and couplings		4	5
1035	Electric appliances and supplies N. O. S. O. R. in boxes or barrels		1	..
1036	Iron poles for electric railways		4	..
1037	Lead storage plates for storage batteries boxed		3	..
1038	Mast-arms and hangers for electric-light poles		4	5
1039	Porous cups (earthenware for electric batteries) in boxes O. R. B		2	5
1040	Steps, cross-arms and pins, iron for telegraph or telephone poles in boxes barrels or kegs		4	5
1041	Telegraph arms and pins		3	C
1042	Telegraph insulators in boxes or barrels		4	5

1043	Telegraph or telephone instruments and fixtures boxed	1	..
1044	Telegraph or telephone poles, iron O. R	2	4
1045	Telegraph poles N. O. S. Lumber tariff.		
1046	Zinc local battery in boxes or barrels	3	5
1047	Elk heads or horns S. U. (unmounted) boxed or crated	D 1	..
1048	Emery	2	4
1049	Emery wheels boxed	2	..
1050	Emigrant movables property of intending settlers only (household goods released to valu-		
1051	ation of $5.00 per hundred pounds in case of loss or damage and so declared on shipping		
1052	ticket or bill of lading by shipper) prepaid or guaranteed	..	B
1053	The term "emigrant movables" applies to house-		
1054	hold goods, farm machinery and vehicles (second-hand) live stock not to exceed ten (10)		
1055	head trees and shrubbery, lumber and shingles (not to exceed in the aggregate the		
1056	equivalent of 25,000 ft. of lum- ber) fence posts (not to exceed 250 in number)		
1728½	or a portable house and property		
1057	included in the outfit of intending settlers, but		
1058	does not include doors, sash, b-inds, provisions, grain (unless intended for		
1059	seed or for feeding animals while in transit) general merchandise nor any articles intended for sale or speculation *or sale.*		
1060	Enameled or agate ware, sheet-iron:		
1061	In boxes crates or barrels	1	4
1062	Nested in boxes barrels or crates	2	4
1063	Nested solid (same requirements as for stamped tin- ware)	3	4
1064	Excelsior in bales	3	C
1065	Extracts:		
1066	Extracts N. O. S	1	..
1067	Extracts of beef and *bullion* boxed O. R	1	..
1068	Tanning extracts in barrels	2	5
1069	Eyeglasses O. R	D 1	..

1070 F.

1071	Facings coal or foundry	4	D
1072	Feathers:		
1073	Feathers, feather beds and pillows in bales bags or bundles O. R.	D 1	..
1074	Feathers in boxes	D 1	..
1075	Domestic machine compressed in bales	1	..
1076	Feathers imported in original packages (iron hoop bales weighing not less than 600		
1077	pounds)	2	..
1078	Feather dusters boxed O. R.	1	..
1079	Feather pillows machine compressed in bales	1	..
1080	Quills packed O. R.	D 1	..

1729

1081	Fencing material and supplies.		
1082	Barbed-wire stretchers and lifters:		
1083	In bundles	1	..
1084	In boxes or barrels	3	..
1085	Combination wire and wood fence in rolls	4	C
1086	Fence-post drivers K. D. flat in boxes or bundles released	1	A
1087	Fence wooden in sections and gates	1	D
1088	Fence wooden K. D. in bundles	3	B
1089	Fencing expanded metal	2	4
1090	Fence-looms:		
1091	Set up	1½	A
1092	K. D. pieces	1	A
1093	Completely K. D. and boxed	2	A
1094	Iron fencing or railing O. R.	2	5
1095	Iron fence taken apart in bundles	4	5
1096	Iron fence-posts wire fence-stays and staples in kegs and barbed-wire stretchers and		
1097	lifters in boxes or barrels shipped with fence wire in mixed car-load		5
1098	Posts, fence wooden See lumber tariff	3	..
1099	Wire *barrels* in kegs or boxes	4	5
1100	Wire fence-stays in bundles	4	5
1101	Wire fence in rolls and gates in bundles	4	B
1102	Wire fence with steel posts and tubular railing in rolls or bundles	4	B
1103	Wire fence or wire-works for interior finish boxed	1	..
1104	Wire fence-staples in boxes kegs or barrels	4	..

1730

1005	Fertilizers:		
1006	Fertilizers N. O. S. in packages	4	E
1107	Fertilizing salts	4	E
1108	Guano	3	..
1109	Land plaster in sacks or barrels	4	C
1110	Tobacco dust (refuse sweepings of tobacco factories used as fertilizers) in barrels	4	E
1111	Fibre:		
1112	Cactus fibre pressed in bales	3	C
1113	Cane rubbing in bales	2	B
1114	Coco-fibre in rolls or pressed in bales O. R. of fire	2	B
1115	Fibre N. O. S. in bales O. R. of fire	2	D
1117	Flax straw	..	E
1118	Grass fibre pressed in bales O. R. of fire	..	2
1119	Hemp in bales O. R. of fire	2	B
1120	Manilla in bales	2	B
1121	Open in bales O. R. of fire	2	B
1122	Palm fibre in bales	2	B
1123	Ramie crude in bales O. R. of fire	4	E
1124	Rattan	1	..
1125	Sissal	3	4
1126	Tampico in bales O. R. of fire	3	B
1127	Toe in bales O. R. of fire	2	B
1128	Vulcanized fibre	3	..

1731

1129	Figures, wooden or display, N. O. S.:		
1130	Set up	3 t 1	..
1131	Crated	1½	..
1132	Boxed	1	..
1133	Filters:		
1134	Boxed N. O. S.	1	..
1135	Wooden O. R.	2	3
1136	Metallic in boxes or barrels	1	3
1137	Fire-alarm boxes, boxed or crated	2	..
1138	Fire apparatus:		
1139	Carriages, hose (four wheel) loaded in box car 3,000 lbs. each	1	A
1140	Carts, hose, horse:		
1141	Loaded in box car 2,000 lbs. each	1	A
1142	Loaded on flat car	1	A

1143	Carts, hose, hand:		
1144	Loaded on flat cars	D 1	A
1145	Actual weight	D 1	A
1146	Carts hose K. D. boxed or crated loaded in cars	1½	A
1147	Engines, fire:		
1148	Chemical N. O. S. min. wt. 6,000 lbs. each	1	A
1149	Chemical hand actual weight	D 1	A
1150	Hand N. O. S. min. wt. 3,000 lbs. each	1	A
1151	Steam min. wt. 8,000 lbs	1	A
1152	Steam hand min. wt. 3,000 — each	1	A
1732			
1153	Fire-engines (or mounted pumps) without boxes loaded in box cars	D 1	A
1154	Fire-extinguishers:		
1155	Hand grenade box- O. R.	1	A
1156	N. O. S. O. R.	..	1
1157	Fire-extinguishing fluid N. O. S. in barrels or casks O. R. L.	4	5
1158	Hook-and-ladder trucks	1	..
1159	Set up min. wt. 5,000 lbs. each	1	..
1160	Wheels taken off loaded in box cars	D 1	A
1161	Hose bridges K. D. in bundles	3	4
1162	Iron fire escapes:		
1163	Boxed or crated		
1164	N. O. S.	1	..
1165	Fish:		
1166	Fish dried pickeled or salted fish N. O. S.	4	5
1167	Codfish in bundles	3	5
1168	Fish eggs O. R. P. P. — gtd	1	4
1169	Fresh fish (gross weight) O. R. P. P. or gtd	1	4
1170	Fresh fish not in water-tight packages not taken.		
1171	Fish in glass packed in barrels or boxes	2	5
1172	Herring dried or smoked in boxes	3	5
1173	Smoked fish N. O. S.	3	5
1174	Oysters and clams:		
1175	Fresh in tubs cans or kegs (gross weight) prepaid or guaranteed	1	..
1176	Shell in barrels prepaid or guaranteed	2	3
1733			
1177	Pickled or cove packed	4	5

1178	(See also preserves.)		
1179	Sardines or shadines domestic or imported in boxes or kegs	2	5
1180	Flag poles:		
1181	N. O. S.	1½	..
1182	Iron and attachments K. D.	2	5
1183	Flax meal	4	C
1184	Fluters boxed	2	..
1185	Food prepared for infants and invalids	1	..
1186	Foundry flasks (new or second-hand) and follow-boards	3	B
1187	Frames.		
1188	Frames, picture and mirror:		
1189	Wrapped	D 1	..
1190	Wrapped released	1½	..
1191	Boxed or crated	1	..
1192	Glazed box- O. R.	1	..
1193	Glazed crated	1	..
1194	Picture and mirror frames and mouldings wrapped or packed released min. wt. 10,000		
1195	pounds	..	2
1196	Fruit.		
1197	Apples:		
1198	In baskets or bags O. R. P. P. or gtd	1	5
1199	In barrels or boxes O. R. P. P. or gtd	3	5
1200	In bulk O. R.	..	5
1734			
1201	Apple cores or skins in barrels boxes or sacks	4	B
1202	Bananas O. R. prepaid or guaranteed	1	3
1203	Berries fresh O. R. prepaid	1	3
1204	Citron	1	..
1205	Cranberries, domestic or imported:		
1206	In boxes O. R.	2	4
1207	In barrels O. R.	3	4
1208	Currents fresh O. R. prepaid	1	..
1209	Dates	1	..
1210	Figs:		
1211	In drums or sacks	1	..
1212	In boxes or casks.	2	..
1213	Fruit dried desic-ated or evaporated including apples, berries, currents grapes (exclusive		

1214	of raisins) peaches and prunes in cans, boxes, barrels or sacks released	3	
1215	Fruit green N. O. S. O. R. prepaid or guaranteed	1	
1216	Fruits green tropical and domestic (including cocoa-		
1217	nuts, but not including nuts edible N. O. S.) and cranberries domestic or imported		
	O. R. P. S. or gtd		
1218	Grapes domestic or foreign O. R. P. P. or guaranteed		
1219	in boxes, kegs, baskets or stands	1	
1220	Lemons, oranges bananas and other tropical fruits O. R. P. P. or gtd	1	
1221	Melons:		
1222	In packages O. R. P. P	1	
1223	In bulk O. R. P. P		
1224	Peaches O. R. P. P. or guaranteed	1	
1735			
1225	Pine-apples packed O. R. P. P. or guaranteed	1	
1226	Prunells in boxes or casks	2	
1227	Prunes:		
1228	In cans glass or jars packed released	1	
1229	In boxes or sacks released	3	
1230	In original casks or in barrels	4	
1231	Raisins	2	
1232	Fruit-driers N. O. S. (cast-iron parts of detached and boxed or crated) O. R	1	
1233	Fruit-jars or fruit-jar tops in boxes and barrels O. R.	2	
1234	Fruit-pitters	2	
1235	Fuel.		
1236	Charcoal:		
1237	In barrels hhds. or sacks	3	D
1238	In bulk		D
1239	Coal:		
1240	In boxes barrels hhds. or sacks 4	See tariff	
1241	In bulk	See tariff	
1242	Coke:		
1243	In boxes barrels hhds. or sacks 4	See tariff	
1244	In bulk	See tariff	
1245	Fire-kindlers N. O. S	3	B
1246	Fuel composition in barrels or kegs	3	4
1247	Fuel or stove cartridges boxed	1	
1248	Peat	4	D

1736

1249	Peat fuel-blocks	..	D
1250	Wood fuel:		
1251	In boxes	3	B
1252	In bulk	..	E
1253	Furniture, released, O. R. of rubbing, chafing, or breaking, when in car-loads, as follows, viz:		
1254	Bed-slats	..	D
1255	Bedsteads not folding beds, extension bed-lounges (not upholstered) min. wt. 16,000		
1256	pounds	..	A
1257	Bedsteads (not folding beds) extension bed-lounges (not upholstered) and tables	..	A
1258	Bunks and bunk bottoms iron frame min. wt. 16,000	..	A
1259	Chairs common, settees N. O. S. (not upholstered) min. wt. 12,000 lbs	..	4
1260	Chair seats perforated wood	..	A
1261	Church furniture K. D. altars, pew backs, chancel rails, mouldings pew ends, pulpits		
1262	seats min. wt. 16,000 lbs	..	3
1263	Mattresses bunk bottoms (wood frames) spring beds, spring bed bottoms cots (including		
1264	folding cots and mattresses with head-boards and attachments) min. wt. 10,000 pounds	..	4
1265	Preservers fruit and vegetable min. wt. 16,900 pounds	..	D
1266	Refrigerators min. wt. 16,000 lbs	..	D
1267	Safes kitchen min. wt. 16,000 lbs	..	A
1268	School-desk seats	..	A
1269	School-desk castinks	..	A
1270	Spring beds completely K. D. (or spring-bed material consisting of lumber, springs, ties		
1271	and staples in boxes, barrels or casks, hoop iron in bundles) min. wt. 24,000 lbs.		
1272	*pounds*	..	A

1737

1273	Tables N. O. S. and table-slides	..	A
1274	Th*h*eater seats min. wt. 16,000 lbs	..	3
1275	Furniture new except where higher charges will accrue by application of rating shown		
1276	above min. wt. 12,000 lbs	..	3
1277	Furniture, new, L. C. L., O. R. of rubbing, chafing, or breakage, released, as follows:		
1278	Bamboo furniture wrapped or crated	D 1	..

1279	Bank counters:	
1280	N. O. S.	D 1
1281	K. D. (in sections not over 16 feet in length)	1
1282	NOTE.—Fittings for bank counters may be loaded with bank counters in mixed car-loads at	
1283	same rate.	
1284	Beds folding (folding beds) boxed wrapped or crated	1
1285	Bed-slats in bundles	3
1286	Bedsteads:	
1287	N. O. S.	2
1288	Brass K. D.	1
1289	Iron K. D.	2
1290	Bed lounges extension not upholstered	2
1291	Bed te-sters or canopies boxed crated or wrapped O. R.	B 1
1292	Bookcases wrapped or crated	1
1293	Bottles or liquor cases boxed or crated	1
1294	Boxes post-office (lock and call) boxed or crated	1
1295	Bunks and bunk bottoms iron frame K. D. in bundles	3
1296	Bunk bottoms wood frames	1
1738		
1297	Bureaus wrapped or crated	1
1298	Bureau glass frames in bundles wrapped or crated	1
1299	Cabinets post-office boxed or crated	1
1300	Cane seats for chairs in bundles boxed or crated	1
1301	Cane woven for chair seats in bundles crates or boxes	1
1302	Car seats, chairs upholstered boxed or crated	1
1303	Chairs, barber, dental, reclining or surgical:	
1304	Set up	D 1
1305	Partially K. D.	1
1306	Completely K. D.	2
1307	Chairs camp and folding seats wrapped or crated	2
1308	Chairs hammock or folding	2
1309	Chairs lawn bases detached and packed on top of seats	1
1310	Chairs N. O. S.	1
1311	Set up wrapped or crated	D 1
1312	Completely boxed	1
1313	K. D. in bundles or boxes	2
1314	Chairs office, cast-iron parts of in boxes barrels or casks	4

1315	Chairs, rattan or willow:		
1316	Set up wrapped boxed or crated	3 t 1	..
1317	K. D. wrapped or crated	D 1	..
1318	Chairs, cane, splint and wood seat set up wrapped or crated	1½	..
1319	Chair bases, wooden, front and back stretchers removed nested in bundles or		
1320	boxed	2	..
1739			
1321	Chair frames:		
1322	N. O. S.	3 t 1	..
1323	In the white nested	D 1	..
1324	Chair rockers, in bdls. or boxes	2	..
1325	Chair seats, perforated, wood:		
1326	K. D. tied in bdls	1	..
1327	K. D. crated or boxed	3	..
1328	Chiffoniers, crated or wrapped	1	..
1329	Church furniture—altars, chancel rails, mouldings, pew backs, pew ends, pulpits, and seats:		
1330	N. O. S.	1½	..
1331	K. D.	2	..
1332	Cots:		
1333	N. O. S. K. D. or folded	3	..
1334	Wire	1	..
1335	Cribs:		
1336	Brass set up	D 1	..
1337	Brass K. D.	1	..
1338	N. O. S. K. D. or folded	2	..
1339	Dressing cases, crated or wrapped	1	..
1340	Desks, wrapped or crated	1	..
1341	Furniture frames:		
1342	N. O. S.	3 t 1	..
1343	In the white, nested	D 1	..
1740			
1344	Furniture, N. O. S.:		
1345	Set up, crated or wrapped	D 1	..
1346	K. D. tied in bundles	1½	..
1347	K. D. boxed or crated	1	..
1348	Glass forming an integral part of hat-racks, sideboards, and folding beds may be rated the		
1349	same as the article of which it is a part.		

1350	Hall stands:	
1351	Set up wrapped crated or boxed	1½
1352	K. D. wrapped or crated	2
1353	Hassocks and foot-stools wrapped	1
1354	Hat-racks:	
1355	S. U. wrapped or crated	1½
1356	K. D. wrapped or crated	2
1357	Iron furniture, N. O. S.:	
1358	Set up	D 1
1359	K. D.	2
1360	Lounges:	
1361	Upholstered, N. O. S. wrapped or crated	D 1
1362	Upholstered, backs taken off	1
1363	Willow or rattan lounges	3 t 1
1364	Without backs	1
1365	Lounge frames:	
1366	Set up	3 t 1
1367	Backs taken off	1
1368	Without backs	1
1741		
1369	Mattresses, except coiled wire or spiral spring	1
1370	Pigeon-holes, nested of, boxed or crated	1
1371	Preservers, fruit and vegetables:	
1372	Set up	1½
1373	K. D.	2
1374	Racks, coat and hat, wall, crated or boxed wrapped	1½
1375	Refrigerators:	
1376	Cigar, wooden, metallic lined	2
1377	Paper wrapped O. R.	1½
1378	N. O. S. and slides	2
1379	Rustic furniture, set up	D 1
1380	Safes, kitchen:	
1381	Set up	1½
1382	K. D.	2
1383	School desks and seats:	
1384	Set up	1
1385	K. D.	2
1386	School desks, folded compact, wrapped O. R. released	2

1387	School-desk castings, crated, or in bundles, ends protected		2	..
1388	Screens, ornamental, wood or composition, packed flat, or boxed	D	1	..
1389	Settees, folded and packed flat		2	..
1390	Settees, N. O. S.:			
1391	S. U. wrapped or crated	D	1	..
1392	Boxed		1	..
1742				
1393	K. D. in bundles or boxes		2	..
1394	Sideboards wrapped or crated		1	..
1395	Slabs, marble, slate or stone furniture, boxed or crated		3	..
1396	Sofas and tete-a-tetes, wrapped or crated	D	1	..
1397	Spring beds and spring-bed bottoms, coiled wire or spiral springs:			
1398	Set up		1¼	..
1399	Folded and tied in bundles		1	..
1400	K. D. boxed		2	..
1401	Spring-bed material, consisting of lumber, springs, ties, and staples, in boxes, barrels, or casks:			
1402	Hoop iron in bundles		4	..
1403	Stools:			
1404	Office, boxed or crated		1	..
1405	Store, with iron bases, boxed or crated		1	..
1406	Tables:			
1407	N. O. S. wrapped or crated		1	..
1408	N. O. S. (except extension tables) K. D. or folded		2	..
1409	Extension pillar, K. D. packed		3	..
1410	Table legs, slides, leaves and supports (extension tables K. D.)		3	..
1411	Theatre seats:			
1412	S. U.		1½	..
1413	K. D.		2	..
1414	Wardrobes:			
1415	Set-up, wrapped or crated		1½	..
1416	K. D. wrapped or crated		2	..
1743				
1417	Washstands, wrapped or crated		1	..
1418	Furniture stock, in rough, sawed to shape, not further finished		..	B

1419 Furs and skins:
1420 Buffalo robes in bales.....
1421 Chamois scrap clippings, in bxs. barrels or bags...
1422 Deer skins, in bales or bundles.....
1423 Furs:
1424 In sacks or bales..... 3t
1425 In boxes.....
1426 Goat robes:
1427 In bales.....
1428 Boxed.....
1429 Pelts and peltries (raw, undressed furs) other than sheep not dressed.....
1430 Skins N. O. S. in bales.....
1431 Fuse and squibs, boxed O. R.....
1432 G.
1434 Gambrels, in boxes, brls. or crates.....
1435 Game and poultry:
1436 Game O. R. P. P. subject to State laws.....
1437 Poultry:
1438 Dressed O. R.....
1439 Alive, in coops, O. R. released, P. P. or gtd.. ..... D
1440 NOTE.—One person may be passed with one or more car-loads of live poultry, in
1441 coops, to feed, water and care for the same. No return pass will be given.
1744
1442 Venison O. R. P. P. subject to State laws.....
1443 Gas in metal cylinders, O. R. P. P. boxed.....
1444 Gas-fixtures in boxes, brls. or hhds. O. R.....
1445 Gasoline soldering furnaces, boxed or crated O. R..
1446 German silver in sheets or roles, in boxes, barrels, half-barrels or casks.....
1447 German silver scrap.....
1448 German silverware, boxed rel.....
1449 Glass:
1450 Bent glass O. R. B.....
1451 Colored N. O. S. decorated, enameled, figured, ground, leaded, stained glass
1452 boxed in packages not exceeding 20 feet united measurement (length and
1453 width added) O. R..... 3t
1454 Boxed, in packages, exceeding 20 feet united measurement (length and width added)
1455 O. R..... 3t

1456	Looking glasses, mirrors, and shock glass, boxed:			
1457	External measurement of pkg. exceeding 5½ feet in length loaded in box car O. R.	D	1	..
1458	External measurement of pkg. 5½ — and under in length, loaded in box car O. R.		1	..
1459	When of such size as to require flat car, O. R. released	3	t 1	..
1460	Plate-glass, boxed:			
1461	In packages exceeded 20 feet united measurement (length and width added) O. R	3	t 1	3
1462	In packages not exceeding 20 feet united measurement (length and width added) O. R.		1	3
1463	Rough glass, for vaults or skylights		4	5
1464	Rough rolled or ribbed glass, colored or uncolored, N. O. S.		4	5
1745				
1465	Window glass, common, boxed:			
1466	External measurement of package exceeding 86 united inches (length and width added)			
1467	O. R.		1	..
1468	External measurement of pkg. not exceeding 86 united inches (length and width added)			
1469	O. R.		2	..
1470	External measurement of pgk. not exceeding 68 united inches (length and width added)			
1471	O. R.		4	..
1472	Loaded in box cars O. R.		5	..
1473	Glass, scrap, in bxs. brls. or hhds.		4	D
1474	Glassware N. O. S. including glass battery jars and lanters globes in bxs. brls. casks			
1475	or crates O. R.		2	4
1476	Battery jars (glass) bottles (glass) demijohns, glassware N. O. S. glass lamps and founts			
1477	lamp chimneys, lamp globes (glass) in bxs. brls. crates or casks O. R.		..	4
1478	Glass house-pots (earthenware) O. R. B.		2	4
1479	Glaziers' points boxed		2	..
1480	Globes, geographical, bxd. O. R.	D	1	1
1481	Glucose, grape sugar and glucose syrup		4	5
1482	Glucose refuse or sugar-meal		4	E
1483	Glue:			
1484	Dry glue		3	4

1485 Liquid glue:
1486 In glass boxed ... 1
1487 In tin, boxed ... 2
1488 In bulk, in barrels, O. R. L. ... 2
1489 Glue pots ... 2
1746
1490 Glycerine:
1491 In glass boxed, O. R. ... 1
1492 In cans, bxd. or jacketed ... 2
1493 In brls. drums or casks ... 3
1494 Gold and silver foil, not taken.
1495 Graders' outfit second-hand ...
1496 Graphophones, boxed O. R. ... 1
1497 Grasses, N. O. S. in boxes or brls ... 1
1498 Grease.
1499 Axle-grease:
1500 In cans, buckets, pails or tubs ... 2
1501 In bxs. brls. or kegs ... 4
1502 Grease (except axel):
1503 In buckets, tubs or pails ... 2
1504 In barrels ... 4
1505 Grindstones:
1506 C. R. ... 1
1507 O. R. ... 4
1508 Mounted O. R. ... 2
1509 Grindstone frames:
1510 Set up ... 1
1511 K. D. and tied in bundles ... 3
1512 Grindstone fixtures, iron, in bundles, boxes or crates 3
1747
1513 Groceries:
1514 Allspice, in bags, boxes or barrels ...
1515 Baking powder:
1516 In glass boxed, O. R. ... 3
1517 In tin, in brls. or in tin, boxed ... 3
1518 Blueing ... 1
1519 Candles ... 3
1520 Cassia:
1521 In mats ... 1
1522 In boxes ... 2

1523	Chocolate	1	..
1524	Cloves	2	..
1525	Cocoa	1	..
1526	Cocoanut concentrated or desic-ated	2	..
1527	Coffee:		
1528	Condensed, in cans, boxed	1	5
1529	Condensed, in glass, boxed	3	5
1530	Extracts or essence	3	..
1531	Green in sacks	4	5
1532	Ground in boxes, cabinets (wood or iron) or barrels.	3	..
1533	Ground in tin cans, crated O. R.	3	..
1534	Ground in glass jars, packed in barrels or boxes	3	..
1535	Roasted in sacks	3	5
1536	Roasted, packed in drums, boxes or barrels	4	5
1537	Roasted, in tin cans, boxed or crated O. R.	4	5
1748			
1538	Cream tartar	2	..
1539	Ginger	2	..
1540	Groceries N. O. S	1	..
1541	Lemon and orange peel, in boxes or drums	1	..
1542	Mac-roni boxed	1	..
1543	Mustard dry: In cans boxed	2	..
1544	In bulk in barrels	3	..
1545	Nutmegs	1	..
1546	Pepper	2	..
1547	Pepper mixtures	2	..
1548	Rice, rice flour, rice meal or broken rice, in bags, brsl. or tierces	4	5
1549	Sago boxed or bags	1	..
1550	Saleratus	3	4
1551	Saleratus and bicarbonate of soda	..	4
1552	Saratoga chips, packed	1	..
1553	Spice:		
1554	In pails crated	2	..
1555	In pails with wooden covers	1	..
1556	N. O. S. in bags	1	..
1557	N. O. S. in boxes or barrels	2	..
1558	Spice meal	2	..
1559	Starch:		
1560	N. O. S. in boxes or barrels	3	5
1561	Liquid, or starch polish, in glass, bxd. in wood O. R.	1	..
1749			
1562	Sugar:		
1563	Maple or lemon	2	4
1564	N. O. S. in boxes or barrels, or in sacks and bags other than paper	4	5

1565	Syrup, including rock-candy syrup or molasses:		
1566	In cans, not packed O. R.	D 1	..
1567	In tin cans jacketed O. R.	1½	5
1568	In glass or jugs, boxed O. R. of leakage	2	5
1569	In pails O. R. of leakage	D 1	D
1570	In barrels, kegs or kits O. R. of leakage	4	5
1571	In tin kegs, flat tops inclosed in veneer jackets	4	5
1572	In cans (square or round) boxed or in barrels O. R.	4	5
1573	For description of packages entitled to be rated as kits, see kits.		
1574	Syrup for flavoring O. R.	1	..
1575	Tapioca bxd. or in bags	1	..
1576	Tea	1	..
1577	Tripoli	2	3
1578	Vermicelli, boxed	1	..
1579	Yeast cakes, crumbs or powders	3	4
1580	Yeast liquid	1	..
1581	Gums:		
1582	Copal, shellac or kowrie	2	..
1583	Gum chicle, in sacks	1	4
1584	Gums, N. O. S. O. R.	1	..
1750			
1585	Guttering, N. O. S.:		
1586	O. R.	1	4
1587	Nested boxed or crated O. R.	2	4
1588	H.		
1589	Hair, curled:		
1590	In bales	1	..
1591	In sacks	D 1	..
1592	In sacks two or more sacks pressed and bound together	1	..
1593	Hair, hogs' and plastering:		
1594	In paper sacks machine-compressed in solid bundles.	3	5
1595	In sacks	1	5
1596	In barrels	2	5
1597	Pressed in bales	3	5
1598	Hammocks:		
1599	In boxes	1	..
1600	In bundles	1½	..
1601	In bales	1	..
1602	Hammock-spreaders	3	..
1603	Hammock stands K. D. in bundles or crates	..	2

1604	**Handles.**		
1605	Ax handles:		
1606	In bundles	2	A
1607	In boxes or crates	4	A
1608	Broom handles in bundles	4	A
1751			
1609	Handles of wood, N. O. S.:		
1610	In bundles	3	A
1611	Boxed or crated	4	A
1612	Mop handles:		
1613	In bundles	3	..
1614	In boxes or crates	4	..
1615	Hardware N. O. S.	2	..
1616	Harness and saddlery:		
1617	Bridge pads boxed	2	..
1618	Fly-nets in bundles boxes or bales	1	..
1619	Hames:		
1620	Wood in bundles	2	A
1621	Wood in boxes	4	A
1622	Iron tin or japan boxed	4	A
1623	N. O. S. in bundles or boxes	2	A
1624	Harness:		
1625	N. O. S. in bundles boxes or bales O. R.	1	..
1626	Steel	2	..
1627	Horse collars:		
1628	Racked or in bundles O. R.	1	..
1629	Boxed	2	..
1630	Ink, harness in tin cans boxed	2	..
1631	Rough elm forks for saddletrees:		
1632	In bundles	2	..
1633	In boxes or crates	3	..
1752			
1634	Raddlery, hardware	2	..
1635	Saddlery N. O. S. boxed	1	..
1636	Saddles in bales or boxes	1	..
1637	Saddletrees	1	..
1638	Stirrups:		
1639	In boxes or crates	3	..
1640	Wooden in bundles or sacks O. R.	2	..

1641	Stitch-horses:			
1642	Set up	1	..	
1643	K. D.	2	..	
1644	Sweat-collars or sweat-pads boxed or in bales	2	..	
1645	Whips, whip-handles, and whip-stocks, N. O. S.:			
1646	In bundles O. R.	1½	..	
1647	Boxed	1	..	
1648	Whip-stocks, wooden:			
1649	In bundles	1	..	
1650	In boxes or crates	2	..	
1651	Hats.			
1652	Hats and caps (including straw bonnets and caps):			
1653	In boxes	1	..	
1654	In trunks	D 1	..	
1655	Hay and straw.			
1656	Hay and cane fodder:			
1657	Baled but not pressed O. R.	1½	..	
1753				
1658	Baled and pressed O. R.	3	..	
1659	Baled and pressed O. R. of fire	..		C
1660	Hay and straw O. R. of fire	..		C
1661	Straw:			
1662	Baled but not pressed	1½		E
1663	Baled and pressed O. R.	3		E
1664	O. R. of fire	..		E
1665	Heaters, cream milk and water crated	3		5
1666	Herbs:			
1667	Dried N. O. S. in pkgs	1	..	
1668	Of less value than ten cents per pound pressed in bales	..		3
1669	Deer tongue- in bales or brls.	3	..	
1670	High explosives will be subject to local rules and rates of roads transporting same.			
1671	The right of any railway companies adopting this classification to refuse to			
1672	receive hight explosives for transportation under any circumstances is reserved.			
1673	Hods, mortar and brick	2	..	
1674	Hog racks K. D. in bundles	1		A

1675	Honey:		
1676	In pails	D 1	..
1677	In cans boxed O. R.	2	..
1678	In kegs O. R.	2	..
1679	In barrels or casks O. R.	3	..
1680	In comb boxed O. R.	1	..
1681	Honey in comb not boxed not taken.		
1754			
1682	Honey beans or St. John's bread	2	..
1683	Honey-box lumber	3	D
1684	Hops	2	..
1685	Hose, leather, rubber or canvass:		
1686	N. O. S. O. R. of chafing	1	..
1687	Boxed	2	..
1688	Hose reels, garden or lawn:		
1689	S. U.	D 1	..
1690	K. D.	1	..
1691	Household goods, including personal effects:		
1692	In boxes or barrels released to valuation of $5.00 per 100 lbs. in case of loss		
1693	or damage and so declared on shipping ticket or bill of lading by shipper		
1694	prepaid or guaranteed	1	B
1695	Not in boxes or barrels including second-hand furniture, chairs stoves &c. released to valuation		
1696	of $5.00 per 100 lbs. in case of loss or damage and		
1697	so declared on shipping ticket or bill of lading by shipper P. P. or gtd	1	B
1698	Household goods prepaid or guaranteed not conforming to the above requirements	1½	A
1699	NOTE.—Shipments of trunks filled with goods should not be accepted unless boxed		
1700	strapped and released.		
1701	House-mover's outfit second-hand	..	A
1702	Husks in bales	3	C
1703	I.		
1704	Ice prepaid	1	E
1705	NOTE.—Ice furnished by shippers for preservation of freight loaded in refrigerator cars		
1706	not to exceed 3,000 pounds free.		

1755

1707 Ice-cream freezers:

1708 L. C. L. ..... 1 ..
1709 Min. wt. 16,000 lbs. 3
1710 Ice-pans iron used in connection with ice-machines. D 1 ..
1711 See also machinery (ice-machines).

1712 Incubators and brooders O. R. ..... 1 A
1713 Insect powder O. R. ..... 1 ..
1714 Instruments scientific boxed released ..... D 1 ..
1715 Insurance house plates boxed ..... 3 ..

1716 Iron and steel articles:

1717 Anchors ..... 4 ..
1718 Angle iron 4 5
1719 Band iron 4 5
1720 Bar iron 4 5
1721 Boiler iron 4 5
1722 Boiler plates (bent or straight) 4 5
1723 Rod iron 4 5
1724 Skelp iron 4 5
1725 Tank iron 4 5
1726 Angles, beams, columns, girders, channels, tees, piling, plates O. R. of breakage 4 5
1727 Anvils ..... 4 ..
1728 Anvils and vices combined O. R. ..... 2 ..

1756

1729 Architectural iron, N. O. S.:

1730 O. R. 1 4
1731 Boxed or crated 3 4
1732 Axles N. O. S. 3 5
1736 Bag-holders boxed ..... 2 ..
1734 Barrels N. O. S. not less than 75 lbs. each O. R. .... 1 ..
1735 Bed-rail fastenings in kegs 4 5

1736 Blind hinges, bolts, gate hinges, hooks, rivets, staples, strap hinges, washers, and nuts, iron:

1737 In boxes kegs or barrels 4 5
1738 Boiler fronts and manhole covers pressed steel (crabs and bolts boxed) 3 5
1739 Bolts over 24 inches in length in bundles 4 5
1740 Borings .... D
1741 Brackets in barrels or boxes 2 5
1742 Brackets, sash-cord pulleys, spring hi-ges and stove-cover lefter-packed 5
1743 Butts ..... 4 ..

1744	Castings or forgings:		
1745	Not machine-finished light (under 100 lbs. each loose) O. R.	1	5
1746	Plain and heavy (each 100 lbs. or over) not machine-finished except being drilled		
1747	with bolt-holes O. R.	4	5
1748	Not machine-finish- except being drilled with bolt-holes in boxes or casks	4	5
1749	Ceiling in boxes or crates O. R.	5	5
1750	Chain, N. O. S.:		
1751	Boxed	4	..
1752	In barrels or casks	4	5
1753	Loose	2	..
1757			
1754	Cable chain	4	..
1755	Provisions for iron cable chain is applicable on iron chain of not less than one-half inch		
1756	(diameter of iron size).		
1757	Coal-drills boxed	2	..
1758	Coal chisels	3	..
1759	Corrugated, galvanized, hoop, and sheet iron:		
1760	See R. of damage by wet	1	..
1761	Released	4	5
1762	Cotton bale-ties	4	5
1763	Crestings:		
1764	Crated	3	..
1765	Boxed	4	..
1766	Crushed steel in barrels or kegs	4	D
1767	Cylinder casings pressed steel	3	5
1768	Dog-irons in boxes or bundles	2	..
1769	Drift bolts or spikes:		
1770	In barrels or casks	4	..
1771	In bulk	..	5
1772	Drive-well points, boxed	2	..
1773	Dust-arresters and blow-pipe galvanized iron O. R.	3 t 1	..
1774	Facings or fronts O. R.	3	4
1775	Feed-boxes:		
1776	N. O. S.	2	..
1777	Nested crated	3	..
1758			
1778	Flexible clasps in boxes	3	..

1779	Fountains:	
1780	O. R.	1
1781	Boxed O. R.	2
1782	Gratings, window:	
1783	N. O. S.	3
1784	Taken apart and tied in bundles	4
1785	Grease extractors and cylinders, parts of:	
1786	Weighing 100 pounds or over	4
1787	Weighing less than 100 pounds loose	1
1788	Weighing less than 100 lbs. boxed	2
1789	Hay bale-ties iron or wire	4
1790	Hay racks:	
1791	In bundles	2
1792	Nested in bundles	3
1793	Heads and filter plates cast for linseed-oil presses each weighing 100 pounds or over	4
1794	Hinges spring in boxes	2
1795	(See also iron brackets.)	
1796	Hitching weights:	
1797	Loose	1
1798	In boxes or casks	4
1799	Hooks swamp or lug	2
1800	Hooks in bundles boxes or crates	4
1801	Hooks	..
1759		
1802	Horse and mule shoes actual weight	4
1803	Iron blooms and muck or puddle bars	4
1804	Iron pig	4
1805	Iron scale	..
1806	Iron-work for elevator inclosures boxed or crated	3
1807	Jack, jack screws and levers:	
1808	Loose	3
1809	Boxed	4
1810	Lag screws in kegs or barrels	4
1811	Lamp posts O. R.	2
1812	Measures:	
1813	N. O. S.	1
1814	Closely nested	3
1815	Ore shoots	4
1816	Pails wash-tubs water buckets, galvanized sheet iron close nested O. R.	3

1817	Picket pins:		
1818	In bundles O. R.	2	5
1819	In barrels O. R.	3	5
1820	Pile-driver hammers	4	..
1821	Pipe fittings boxed	4	..
1822	Pipe molds used in casting pipe	4	5
1823	Planished iron:		
1824	N. O. S. C. R.	D 1	..
1825	N. O. S. O. R.	1	4
1760			
1826	Packed in metal cases with wooden covers C. R. of damage by wet	1	..
1827	Packed in metal cases with wooden covers O. R. released	4	5
1828	Portable houses K. D. flat boxed or crated	3	D
1829	Pulleys sash-cord in boxes kegs or barrels	2	5
1830	(See also iron brackets.)		
1831	Pyrites	4	D
1832	Rods for wagon gates in boxes barrels or casks	4	5
1833	Russia iron:		
1835	C. R.	D 1	..
1835	O. R.	1	4
1836	Safety balls in drums or casks	4	..
1837	Sash K. D. in pieces released	4	..
1838	Sash weights:		
1839	O. R.	2	C
1840	Strung on cord or in barrels or boxes O. R.	4	C
1841	Scrap iron in boxes barrels or hhds	4	D
1842	Scrap iron in bulk	..	D
1843	(See also junk.)		
1844	Shingle bands packed	4	..
1845	Shipping staples (made of sheet iron) in boxes or barrels	4	5
1846	Shutters	3	..
1847	Siphons cast iron and connections	5	..
1848	Sleigh shoes O. R.	3	5
1849	Smoke-houses portable	1½	..
1761			
1850	Smokestacks iron cut in shape nested boxed or crated	3	5
1854	Spiegle iron	4	5
1852	Stall guards	2	..
1853	Steam-chest cases, pressed steel	3	5

1854 Stair-work:

1855 Balusters, hand rails, newel posts, risers, stringers, treads..... 4
1856 Swage blocks..... 3
1857 Tank shells for filters..... 3
1858 Toe calks boxed..... 3
1859 Tops, rods and plates for limekilns..... 4
1860 Trucks girders and chains for traveling *trains*..... .
1861 Tumbling barrels, iron without pulleys K. D..... 3
1862 Turn-buckles in kegs or barrels..... 4
1863 Vises..... 2

1864 Wagon skeins *in* boxes:

1865 O. R..... 3
1866 In boxes barrels and casks..... 4

1867 Wall ventilators, galvanized iron, boxed or crated:

1868 Gratings, cast-iron for wall ventilators boxed..... 4
1869 Wedges boxed..... 4
1870 Wheels and axles for push-carts..... 3
1871 Iron sponge..... 4
1872 Ivory..... 1
1873 Ivory black..... 1

1762

1874 Japan-ed iron N. O. S. in sheets flat boxed..... 2
1875 Japan-ed ware..... 4
1876 Jewelers' sweepings and tailings..... 1
1877 Junk, consisting of scrap metal (brass, copper, iron, lead and zinc) scrap tin, bones
1878 hoofs, horns, old empty barrels, or tierces, old rubber, old leather, old rope
1879 paper scrap, rags, broken glass, mixed in carloads only.....

1880 K.

1881 Kennels, dog S. U. min. wt. 10,000 lbs..... 1½
1882 Kennels, dog K. D. min. wt. 10,000 lbs..... 2

1883 Kettles, ash, chaldron, feed, sugar:

1884 C. R..... 1
1885 Released..... 3

1886 Brewers' kettles, copper or steel:

1887 O. R..... 1
1888 In boxes or barrels O. R..... 2
1889 Iron stucco kettles.....

1890	Steam-jacket kettles for rendering:		
1891	C. R....	1	..
1892	Released....	3	..
1893	Tar kettles:		
1894	Set up....	1½	..
1895	Taken apart....	1	..
1763			
1896	Kilns, lumber-drying:		
1897	K. D. packed....	3	..
1898	K. D. and fixtures....	..	A
1899	"KITS."—The packages referred to as "kits" in this classification should meet the following requirements, viz: Bottoms to be set		
1900			
1901	gro-ves in the staves, tops fastened as above, or set on shoulder cut in the staves, and securely fastened thereon, covers		
1902			
1903	not to project above the tops of the staves. Kraut....	4	5
1904	Kraut, pickled, may be loaded in mixed car-loads with pickles at fifth-class rate (see pre-		
1905	serves).		
1906	L.		
1907	Labels in crates or boxes, P. P. or guaranteed....	1	..
1908	Lacquered ware....	1	..
1909	Ladders:		
1910	Ladders, step, completely K. D. and tied in bundles.	..	A
1911	Step-ladders, step-ladder and chair combined, and step-ladder and ironing board com-		
1912	bined:		
1913	O. R. (min. wt. 10,000 lbs.)....	1	3
1914	O. R. in bundles (min. wt. 10,000 lbs.)....	1	3
1915	O. R. in crates or boxes (min. wt. 10,000 lbs.)....	2	3
1916	Ladders, N. O. S., painters' scaffolds and carpenters' folding extension horses:		
1917	Not over 18 feet long, in bdls. O. R. (min. wt. 10,000 lbs.)....	1	3
1918	Over 18 feet long and not exceeding 30 feet O. R. min. wt. 10,000 lbs.... D	1	3
1919	(See also wooden ware.)		
1920	Ladles iron or steel....	3	..

1764

1921 Lamp or carbon black in brls. or casks.....
1922 Lamp chimneys in boxes, barrels, casks or crates O. R.....
1923 Lamp and lamp fixtures N. O. S. in boxes, barrels or hhds. O. R.....
1924 Lamps, lamp fixtures, and lanterns not packed not taken.
1925 Lamp frames, street, glazed or unglazed crated O. R. D
1926 Lamp post, bronze.....
1927 Lanterns in bxs. brls. sacks or crates, O. R.....
1928 Lath, metal (including wire expanded steel and perforated iron).....
1929 Lath wire and fastenings.....
1930 Lawn-mowers, boxed.....

1931 Lead articles.

1932 Bar pipe or sheet lead:

1933 N. O. S.....
1934 In boxes or casks.....
1935 Bar lead, in sacks .....
1936 Pig lead.....
1937 Scrap lead, in bxs. casks or sacks .....
1938 (See also junks.)
1939 Bases for stereotype plates, bxd.....
1940 Glazier's lead, on reals.....
1941 Granulated lead in sacks.....
1942 Lead dross in brls. or casks.....
1943 Lead washers, boxed.....
1944 Sash weights, lead, strung on cord, or in brls. or boxes 4

1765

1945 Sublimate of or sublimed lead..... 4

1946 Leather and articles of:

1947 Cut soles, counters, heels, taps..... 2
1948 Leather, in rolls or boxes..... 2

1949 Leather scrap:

1950 In bundles..... 3
1951 In barrels, boxes or bags 4
1952 Leather, loose..... 1

1953 Leather scraps, shavings, and skivings:

1954 In boxes, barrels or bags 4
1955 C. L.....

1956	Rating- given on leather scrap are applicable on trimmings cut from side leather or ob-		
1957	tained in the manufacture of leather goods.		
1958	Leather tufts, packed	1	..
1959	Leather, old, N. O. S. (See also junk)	..	D
1960	Licorice:		
1961	Stick, root or powder, in bxs. or brls. O. R.	1	..
1962	Mass in boxes	3	4
1963	Root, in bales or sacks	1	..
1964	Life-preservers, cork in packages or securely tied in bundles	1	..
1965	Lightning rods and fixtures, coppered or combination copper and iron:		
1966	In bdls	2	4
1967	In boxes	3	4
1766			
1968	Lightning rods and fixtures, iron:		
1969	In bundles	3	4
1970	In boxes	4	4
1971	Lime:		
1972	In barrels		
1973	In barrels or in bulk, C. L. min. wt. 24,000 lbs.	..	C
1974	Limestone ground in barrels	4	C
1975	Linseed meal	4	C
1976	Liquors and liquids:		
1977	Ale, including malt ale and porter	3	5
1978	Provision for ale in section providing for ale and porter is applicable on the malt liquor and		
1979	not on ginger ale.		
1980	Beer in wood, at O. R. of leakage, freezing and fermenting, and at the following estimated		
1981	weights: Shipper may load 3,000 lbs. of ice or 2,000 lbs. of hay, straw		
1982	and sawdust, where no ice is used, for preservative; where ice and hay, straw and saw-		
1983	dust are used total wt. should not exceed 3,000 lbs., excess to be charged same		
1984	rates.		
1985	Whole brls. 350 lbs.		
1986	Half barrels 180 lbs.		
1987	Quarter brls. 100 lbs.		
1988	Eighth brls. 50 lbs.		
1989	In quantities less than C. L.	3	5

1990	Beer, beer tonic and hop-tea tonic, in bottles packed, at following estimated weights:		
1991	Two dozen qts. per case 90 lbs.	..	
1992	Two dozen qts. packed in sawdust, per case 100 lbs.	..	
1767			
1993	Four dozen qts. packed in sawdust per case 200 lbs.	..	
1994	Two dozen pts. per case 55 lbs.	..	
1995	Two dozen pts. packed in sawdust, per case 65 lbs.	..	
1996	Three dozen pts. per case 85 lbs.	..	
1997	Three dozen pts. packed in sawdust, per case 100 lbs.	..	
1998	Four dozen pts. per case 100 lbs.	..	
1999	Four dozen pts. packed in sawdust, per case 125 lbs.	..	
2000	In casks containing six dozen qts. or ten dozen pts. 250 lbs. each	5	..
2001	In quantities less than C. L.	3	
2002	Beer, in bottles, put up in pasteboard cartoons, packed in boxes having no lids, released	3	
2003	Boiler compound in barrels or casks, or in cans, boxed	3	A
2004	Cider (apple) and cider syrup (apple or orange):		
2005	In wood O. R. leakage and freezing	4	
2006	In wood and apples O. R.	..	
2007	Cider (apple) and cider syrup (apple or orange):		
2008	In bottles packed O. R.	2	3
2009	In mixed car-loads with mineral water	..	5
2010	Disinfectants, fluid in barrels, O. R.	2	..
2011	Egg compound O. R.	1	..
2012	Embalming fluid:		
2013	In glass or jugs boxed, O. R. B.	1	..
2014	In brls. or kegs O. R. L.	4	..
2015	Ginger ale	3	5
2016	Liquid bread in bottles, packed O. R.	1	..
1768			
2017	Mineral water (plain, carbonated, and flavored), Malto, Ky-Lo:		
2018	In bottles and carboys, cans or stone jugs, packed O. R. released P. P. or guaranteed	3	5
2019	In wood O. R. released, P. P. or guaranteed	4	5
2020	In mixed car-loads with ginger ale	..	5
2021	Mineral water, in tank cars furnished by shipper	..	5
2022	Nerve food, packed in cases O. R.	1	..

2023	Soda water in glass, packed in bxs. or brls. or in metal retainers O. R.	3	5
2024	Tonics N. O. S.	1	..
2025	Turpentine:		
2026	In glass, cans or stone jugs, in open boxes, kegs or jackets or O. R.	D 1	..
2027	Turpentine in glass, cans or stone jugs, not packed not taken.		
2028	In cases or in cans (square or round) boxed or in tin kegs, flat tops inclosed in		
2029	veneer jackets, O. R.	1	5
2030	In barrels O. R. of leakage	2	5
2031	In tank cars furnished by shipper	..	5
2032	Vinegar:		
2033	In wood O. R.	4	5
2034	In bottles, packed O. R.	1	..
2035	Wine, in baskets (original packages) corks secured by wire, O. R.	1	..
2036	Wine and whiskey:		
2037	In baskets N. O. S. O. R.	D 1	..
2038	In demijohns, packed N. O. S.	D 1	..
2039	In demijohns, boxed	1	..
2040	In glass, cans or jugs packed in open boxes, kegs or jackets O. R.	D 1	..
1769			
2041	In glass, cans or jugs, completely inclosed in boxes, kegs or jackets O. R. released	1	..
2042	In square or round cans boxed, O. R. released	1	..
2043	In wood O. R. of leakage	1	..
2044	In wood, on basis of $20.00 per barrel valuation, and so receipted for O. R. of leakage.	2	3
2045	Wine and whiskey in glass, cans or jugs, not packed not taken.		
2046	Witch-hazel:		
2047	In glass, packed in brls. or bxs. O. R.	1	..
2048	In bulk, in bbls. O. R.	2	..
2049	Liquors and liquids, N. O. S., including alcohol, bitters, cologne, spirits, high wines, and		
2050	polishing compounds (liquids):		
2051	In glass, cans or jugs, packed in open boxes, kegs or jackets O. R.	D 1	..

2052	In glass, cans or jugs, completely inclosed in boxes, kegs or jackets O. R. released	1	..
2053	In glass, cans or jugs, not packed not taken.		
2054	In square or round cans, boxed O. R. released	1	..
2055	In wood O. R. of leakage	1	..
2056	In wood, on basis of $20 per barrel valuation, and so receipted for O. R. of leakage	2	3
2057	Live stock:		
2058	Ratings given below are based upon declared valuations by shippers, not exceeding		
2059	the following under contract:		
2060	Each horse (gelding or mare) or pony, mule stallion or jack	$100.00	..
2061	Each ox, bull or steer	$50.00	..
2062	Each cow	30.00	..
2063	Each calf	10.00	..
2064	Each hog	10.00	..
1770			
2065	Each sheep or goat	3.00	..
2066	Where the declared value exceeds the above an addition of 25 per cent. will be		
2067	made to the rate for each 100 per cent. or fraction thereof of additional de-		
2068	clared valuation per head; animals exceeding in value $800 per head, will be		
2069	taken only by special arrangement.		
2070	Live stock, in car-loads (limited liability) under contract	See tariff	
2071	NOTE.—Live stock transported in special or palace live-stock cars, will be charged		
2072	as follows:		
2073	In cars not exceeding 30 ft. in length (internal measurement) 120 per cent. of		
2074	tariff rate. For each additional foot or fraction thereof in excess of 30 feet in		
2075	length, (internal measurement) an additional charge of 3 per cent. per foot or frac-		
2076	tion thereof, will be made.		
2077	For example: Live stock in palace car 36 feet in length (internal measurement) will		
2078	be charged 138 per cent. of tariff rate. Live stock in palace car 50 feet in length		
2079	(internal measurement) will be charged 150 per cent. of tariff rate. Live stock		

2080	in palace car 50 feet in length (internal measurement) will be charged 180 per		
2081	cent. of tariff rate. It being optional with any railway company to receive		
2082	cars exceeding 34 feet in length.		
2083	Live stock L. C. L. (limited liability under contract), at actual weights, but not less than		
2084	the following estimated weights, viz:		
2085	One horse (gelding or mare) or pony, mule horned animal 2,000 pounds; two		
2086	animals, 3,500 pounds; three, 5,000 pounds; each additional animal 1,000		
2087	pounds	1	..
2088	Bulls, 2,000 pounds each (be sure and take release)	1	..
1771			
2089	Burros, 750 lbs each	1½	..
2090	Calves (under one year) 0 pounds each	1½	..
2091	Colts (under one year) 7[illegible] lbs. each	1½	..
2092	Cow and calf together, 2,500 lbs.	1	..
2093	Goats in crates, estimated weight 200 pounds each	1½	..
2094	Hogs actual weight	1½	..
2095	Mare and colt (colt under one year old) together 2,500 lbs. each additional colt		
2096	(under one year old) 500 pounds	1	..
2097	Sheep 200 lbs. each	1½	..
2098	Stallions or jacks, 3,000 lbs. each (be sure and take release)	1	..
2099	Lorgnettes, boxed O. R	D 1	..
2100	Lubricants, N. O. S	3	5
2101	Lumber and manufactures of:		
2102	Backing for pictures	3	B
2103	Banana-box material (cottonwood veneers and heading)	3	See lumber tariff
2104	Blinds, doors and sash, glazed with common window glass or unglazed (if glazed releassed):		
2105	Common pine	4	B
2106	Other than common pine	3	B
2107	Balustrade work	3	B
2108	Blocks (base, centre, corner and head)	3	B
2109	Blind frames	3	B
2110	Carpenters' molding	3	B
2111	Casings	3	B
	Closet and pantry fittings (wood)	3	B

1772

2113	Columns	3	B
2114	Corner beads	3	B
2115	Cornice brackets	3	B
2116	Frames, door, window and screen	3	B
2117	Gable ornaments	3	B
2118	Hand rails	3	B
2119	Paneling	3	B
2120	Pilasters	3	B
2121	Porch-work	3	B
2122	Scroll-work	3	B
2123	Stair-work, K. D. (newels, risers, treads, railings, balusters and post ornaments)	3	B
2124	Window stools and aprons	3	B
2125	NOTE.—Above L. C. L. ratings will apply on the articles named when shipped with		
2126	car-loads of lumber and specified upon shipping orders and bills of lading.		
2127	When not so specified, first class rating is applicable.		
2128	Lumber, including ceiling, flooring, wainscoting, may be loaded in mixed car-loads		
2129	with articles above enumerated at class "B" rates.		
2130	Sash or doors, if glazed with glass other than common window glass, released	1	..
2131	Blocks, butchers	4	A
2132	Box lumber, in racks or bundles	3	See lumber tariff
2133	Rating given on box lumber is applicable on lumber cut to length for boxes, not		
2134	further manufactured.		
2135	Brackets, wooden, N. O. S.	1	..
2136	Cigar-box lumber, not cut in shape	3	See lumber tariff

1773

2137	If veneered, will take some rating in C. L. as the lumber from which the veneering		
2138	is made.		
2139	Counters and shelving for stores, offices, and saloons (not including mirrors):		
2140	N. O. S. released	D 1	A
2141	K. D. (in sections not over 16 feet in length) released	1	A
2142	In mixed car-loads with sash, doors and blinds	..	A
2143	Counters, sectional, including cast-iron pilasters, completely taken apart and packed flat	3	..

2144	Eave-troughs, wooden O. R....	2	C
2145	Fanning-mill material, wood in the rough.	3	C
2146	Frames, wooden, for water-closet seats, sinks and urinals	3	B
2147	Guttering, wooden, rough, in bundles.. 2 See lumber tariff		
2148	Hard-wood rollers for house-moving:		
2149	Loose	2	A
2150	Boxed or crated	4	A
2151	Houses, permanent, in sections	..	B
2152	Houses, portable K. D.	3	B
2153	Provisions for portable house- and permanent houses is applicable on lumber material for		
2154	same only, including articles enumerated at class B rates, under the head		
2155	of "blinds."		
2156	Lamp posts, wooden	3	B
2157	Lath, pine 4 See lumber tariff		
2158	Lumber (except foreign woods of value, mahog-ny, rosewood, lignumvitæ and		
2159	other valuable foreign woods) 4 See tariff		
1774			
2160	Logs:		
2161	Market offices in section	3	B
2162	Mattress-frame material, wood	3	C
2163	Pickets, wooden 4 See lumber tariff		
2164	Piles 4 See lumber tariff		
2165	Pipe, water, wooden N. O. S.	3	C
2166	Pipe wooden, for enclosing steam pipe	..	C
2167	Print shelves and dry-goods cases or racks:		
2168	S. U. wrapped, crated or boxed	1½	A
2169	K. D. bundles	3	A
2170	Sawdust:		
2171	In packages	4	E
2172	C. L.	..	E
2173	Shavings, N. O. S. in packages	4	E
2174	Sheathing and lath, combined	3	B
2175	Shingles 4 See lumber tariff		
2176	Stairs, set up, released D 1	..	

2177	Veneering.		
2178	Basswood, birch, California redwood, elm, and laurel, unfinished, in bundles, boxes,		
2179	or crates:		
2180	O. R.	3	C
2181	N. O. S. boxed	2	..
2182	N. O. S. not boxed O. R.	D 1	..
2183	Watering troughs, wooden	2	..
2184	Wood bolts for staves, shingles, or excelsior	4	E
1775			
2185	Wooden mats and flooring	3	B
2186	Woods of value, (foreign) viz: mahog-ny, rosewood,		
2187	lignumvitæ, and other valuable foreign woods	2	3
2188	Woods, turned, N. O. S., including dowel-pins:		
2189	In bags	2	A
2190	In bdls	3	A
2191	Boxed	4	A
2192	M.		
2193	Machinery and machines, O. R., released, as follows:		
2194	Automatic machines for registering weight, height, strength and lung power, and for		
2195	delivery of confectionery and similar purposes N. O. S. boxed	1½	..
2196	Opera-glass boxes, metal and attachments, for opera-houses, boxed	2	..
2197	Belting, cotton, leather, or rubber O. R.	2	..
2198	Blowers, blacksmiths' crated	2	..
2199	Blowers, iron, rotary	2	A
2200	Boilers, loaded and unloaded by owner:		
2201	10 feet and under in length	3	A
2202	Over 10 and under 30 feet in length	1	A
2203	30 feet long or over	1½	A
2204	Boiler-makers' rolls:		
2205	Set up	2	..
2206	K. D.	3	..
2207	Brick and tile machines	2	A

1776				
2208	Bran-dusters:			
2209	Set up	3	t 1	A
2210	Boxed	D	1	A
2211	K. D. boxed or crated		1	A
2212	Broom-sewing machines:			
2213	Set up		1½	A
2214	K. D. in pieces		1	A
2215	Completely K. D. and boxed		2	A
2216	Button-fastening machines:			
2217	Set up		1½	A
2218	K. D. in pieces		1	A
2219	Completely K. D. and boxed		2	A
2220	Clay-crushing machines		2	A
2221	Clay-pulverizing and stone-separating machines, crated		2	A
2222	Coal-drilling machines, hand K. D. tied in bundles O. R.		1	..
2223	Cotton gins		3	A
2224	Feeders and condensers		1	A
2225	Feeders and condensers, min. wt. 15,000 lbs		3	..
2226	Cotton-gin drivers		1	A
2227	Cupolas, gas		3	A
2228	Cupolas, foundry:			
2229	Set up		1½	A
2230	K. D. in pieces		1	A
2231	Cups, self-oiling (for machinery) boxed		1	..
2232	Ditching machines		1	A
1777				
2233	Dog powers		1	..
2234	Elevator buckets or boots, tin or iron:			
2235	Tied in bundles or crated		2	A
2236	Nested, completely boxed		3	A
2237	Engines:			
2238	Lawn, min. wt. 1,000 lbs. each		1	A
2239	Steam, K. D. (to be loaded and unloaded by owner) the light and easily breakable			
2240	and detachable parts removed and boxed		1	A
2241	Caloric and gas, boxed O. R. released		1	..
2242	Evaporators:			
2243	N. O. S	D	1	4
2244	Fruit		1½	4

2245	Fruit, K. D. flat, crated, released	2	
2246	With steamers, feed	..	
2247	Floor-dressers	1	
2248	Flour-packers	2	
2249	Flour-mill machinery as follows:		
2250	Aspirators, belting, boilers, bran-dusters, conveyors, dressers, dressed pine, lumber,		
2251	elevator buckets, engines, grain cleaners, packers, pulleys, purifier, reels,		
2252	roller mills, scourers, separators, shafting, boxes, shafting, smut machines,		
2253	wheels	..	A
2254	Folding machines crated or boxed	2	..
2255	Forges, portable	2	..
2256	Gas-exhausting machine (combined steam-engine, governor and exhauster) light and		
1778			
2257	easily breakable parts removed and boxed	1	A
2258	Grain-cleaning machines N. O. S.	1	..
2259	Grain-conveyors and fixtures (fixtures must be boxed)	2	5
2260	Grain-weighing machines and conveyors, combined, iron parts removed and boxed, wood		
2261	parts crated	2	5
2262	Hemp and shingle machines	1	..
2263	Hoisting machines, freight and passenger:		
2264	Set up	D1	A
2265	Parts of:		
2266	Cylinders	3	A
2267	Lumber	3	A
2268	Nuts and bolts, boxed	4	A
2269	Weights	4	A
2270	Wheels and gearing	1	A
2271	Wire and other rope	4	A
2272	Parts of N. O. S.	1	A
2273	Hoisting machines, N. O. S.	1	A
2274	Ice machines and iron pans for same	..	A
2275	Iron balance or water wheel	2	..
2276	Iron link belting in boxes or casks	4	5
2277	Knitting machines	1½	..
2278	Laundry machinery:		
2279	In frame, or set up	1½	A
2280	K. D. in pieces	1	A

1779			
2281	Completely K. D. and boxed	2	A
2282	Laundry machinery, consisting of—		
2283	Belting	..	A
2284	Boiler	..	A
2285	Clothes-drying closets, K. D	..	A
2286	Engine	..	A
2287	Filters	..	A
2288	Hangers	..	A
2289	Heaters, steam, gas, and sad-iron heaters, used in laundries	..	A
2290	Ironing machines	..	A
2291	Mangles	..	A
2292	Pipes and connections	..	A
2293	Pulleys	..	A
2294	Pumps	..	A
2295	Shafting	..	A
2296	Smokestack	..	A
2297	Starching machines	..	A
2298	Starch kettles	..	A
2299	Stationery tubs	..	A
2300	Steam-power-ringers	..	A
2301	Tanks	..	A
2302	Washing machines (steam-power)	..	A
2303	Looms	D 1	A
1780			
2304	Machines for shearing iron:		
2305	Set up	2	A
2306	K. D	3	A
2307	Meat choppers or cutters:		
2308	Set up	1	..
2309	K. D. boxed	2	..
2310	Middling-purifiers:		
2311	Set up	3 t 1	A
2312	Boxed	D 1	A
2313	K. D. (hooks and pulleys detached, boxed or crated)	1	A
2314	Milk-shakers:		
2315	Set up, crated or boxed	1¼	..
2316	K. D. boxed	2	..
2317	Mills:		
2318	Portable (burr-stone)	1	..
2319	Coffee boxed	2	4

2320	Drug, boxed	2
2321	Bark mills	2
2322	Grain mills	2
2323	Hominy mills	2
2324	Paint mills	2
2325	Rating given on grain mills is applicable on grain-grinding mills and not on grain-	
2326	cleaning machines or fanning mills, which are specifically provided for.	
2327	Quartz mills	2
2328	Roller mills	1
1781		
2329	Provisions for roller mills is applicable upon all kinds of roller mills, in distinction from	
2330	grain-grinding mills.	
2331	Paging and numbering machines, taken apart, parts boxed or crated	1
2332	Pile-driving machines N. O. S.	
2333	Pillow, post, and journal boxes, hangers, and couplings:	
2334	Under 100 pounds in weight	1
2335	Weighing 100 pounds and over	4
2336	Boxed or in brls. or casks	4
2337	May be loaded with iron shafting in mixed C. L. at fifth-class rates, and with machin-	
2338	ery at the same rate as machinery.	
2339	Pitch machines	D 1
2340	Poison-distributing machines:	
2341	Set up	1½
2342	K. D. in pieces	1
2343	Completely K. D. and boxed	2
2344	Portable saw-mills	1
2345	Power hammers	2
2346	Presses:	
2347	Broom	1
2348	Broom-corn	1½
2349	Cider	2
2350	Cotton K. D.	3
2351	Lard	2
1782		
2352	Printing:	
2353	N. O. S.	1
2354	Boxed	2

2355	Pulleys, N. O. S., smooth-faced or grooved wheels used in connection with shafting		
2356	and belting for transmission of power:		
2357	Loose	1	A
2358	Boxed	2	A
2359	When loaded with machinery, in mixed car-loads, same rates as the machinery.		
2360	Punching machines:		
2361	S. U.	2	A
2362	K. D.	3	A
2363	Purifier boilers, water, including steam-jacket heaters and condensers:		
2364	10 feet and under in length	3	A
2365	Over 10 and under 30 feet in length	1	A
2366	30 feet long or over	1½	A
2367	Reels, centrifugal	1	A
2368	Road-making machines:		
2369	S. U.	1½	A
2370	K. D.	1	A
2371	Rock-crushers and revolving screens	2	A
2372	Rollers, iron:		
2373	For roller mills, heavy, cast, boxed	4	..
2374	For wire mills:		
2375	Boxed	4	5
2376	C. L.	..	5
1783			
2377	Saw-mill machinery	..	A
2378	Sewing machines:		
2379	S. U. or K. D. bxd. or racked	1	4
2380	Not boxed or racked not taken.		
2381	Parts of:		
2382	Attachments N. O. S. boxed	1	4
2383	Castings boxed	3	4
2384	Castings in bundles	1	4
2385	Heads, boxed	1	4
2386	Woodwork, boxed, racked or wrapped	1	4
2387	Sewing machine, woodwork boxed, racked or wrapped	..	A

2388	Shafting iron:	
2389	Without wheels	
2390	Wrought or cast with wheels or pulleys attached	
2391	Shafting iron, shipped with machinery in mixed car-loads, same rates as machinery.	
2392	Shearing machines, N. O. S.:	
2393	S. U	
2394	K. D. tied in bundles	
2395	Shoes and dies, iron, cast for stamp-mills	
2396	Smokestacks	
2397	Steam *guages*, boxed	
2398	Steam separators used to separate water from steam in steam pipes:	
2399	Each weighing 100 pounds or over	
2400	Each weighing less than 100 pounds	
1784		
2401	Stills, cold-blast water, K. D	2
2402	Stills, copper or iron, including worms	D 1
2403	Street-sweeping machines:	
2404	N. O. S	3 t 1
2405	K. D. boxed	2
2406	Tire-benders, iron	2
2407	Tire-shrinkers, iron	3
2408	Tobacco-cutters and press combined (steam-power) released	1
2409	Tobacco presses, N. O. S	1
2410	Tobacco re-sweaters:	
2411	N. O. S	D 1
2412	With cast-iron parts detached, and boxed or crated	1
2413	Turbine water wheels	2
2414	Valves, iron:	
2415	N. O. S	1
2416	Boxed	2
2417	Water jackets for smelters	1
2418	Wheels (iron) gear, plain and heavy (100 lbs. each or over)	4
2419	Wood-working machinery on skids all detachable parts removed and boxed	1
2420	Machinery, N. O. S.:	
2421	In frames or S. U	1½
2422	K. D. in pieces	1

2423	Completely K. D. and boxed...		2	A
2424	Machinery specified above (taking class A rates in car-loads) blowers (iron, rotary)			
1785				
2425	boilers, engines, smokestacks and tanks (wooden or iron)		..	A
2426	Magnifiying glasses, boxed O. R....	D	1	..
2427	Mail chutes, boxed.....		1	..
2428	Mail boxes and fixtures, used in connection with mail chutes, boxed....		2	..
2429	Manikins:			
2430	Manikins, wood and metal, boxed O. R.....	D	1	..
2431	Charts and manikins, anatomical, combined, boxed.		1	..
2432	Mantels, wooden (mirrors in packages), at O. R.:			
2433	Loaded in box cars.....		1	3
2434	Loaded on flat cars.....	D	1	3
2435	C. L. min. wt. 12,000 lbs.....		..	3
2436	Mantels, iron, marble, or slate (mirrors in packages):			
2437	Boxed, released, loaded in box car.....		1	A
2438	Boxed released, loaded on flat car.....	D	1	A
2439	C. L. released		..	A
2440	Mantels, wooden, iron, marble, or slate:			
2441	Without mirrors		1	..
2442	C. L. min. wt. 12,000 lbs..		..	3
2443	NOTE.—Grates may be loaded with mant*les* in mixed car-loads at same rates as the			
2444	mant*les*.			
2445	Maps, boxed		1	D
2446	Marble dust.....		4	D
2447	Match splints:			
2448	In bundles.....		1	B
1786				
2449	In boxes.....		3	B
2450	Matches, released		1	3
2451	Mats:			
2452	Door, wire or steel crated...		2	4
2453	N. O. S.....		1	..

2454	Matting:		
2455	Cocoa and hemp	2	..
2456	N. O. S.	1	..
2457	MERCHANDISE.—Shippers are requested to give full description of the contents of packages. All articles described as "merchandise" will be charged double first-class rate.		
2458			
2459			
2460	Metal, pig, for electrotypers and stereotypers	3	4
2461	Metal-workers' supplies:		
2462	Bullion pots	3	..
2463	Clay furnaces, pail-shaped:		
2463	Loose O. R.	1	5
2464	In barrels or boxes O. R.	4	5
2465	In crates, casks, or hhds. O. R.	4	5
2466	Clay furnaces for assayers O. R. boxed	2	..
2467	Corroding pots:		
2468	Loose O. R	1	B
2469	In bxs. brls. crates or casks O. R.	2	B
2470	Crucibles and scorifiers:		
2471	Loose O. R.	1	B
1787			
2472	In barrels, boxes, crates or casks O. R.	2	B
2473	Lead retorts:		
2474	Loose	1	B
2475	In brls. bxs. crates or casks	2	B
2476	Retorts:		
2477	C. R. D	1	B
2478	Clay O. R.	2	B
2479	Iron O. R.	4	B
2480	Clay or iron, with fire brick, and clay mixed carloads	..	C
2481	Slag-pots	3	..
2482	Sleeves, fireclay and plugs, for Bessemer converters.	4	D
2483	Meters, gas or water, boxed or crated O. R.	1	..
2484	Mica	1	..
2485	Mica pulverized and mica dust, in barrels or bags, entirely at O. R. of all damage excepting that occasioned by cars being wrecked.	1	5
2486			
2487	Millstones O. R.	3	A

2488	Milk-can stock:		
2489	Sides boxed or crated, fully released against wet, rust and damage	4	..
2490	Millinery goods:		
2491	Artificial flowers, in boxes P. P. or guaranteed	D 1	..
2492	Feather plumes for hats and bonnets	D 1	..
2493	Feather tips for millinery purposes, boxed	D 1	..
2494	Hats and bonnets, trimmed	D 1	..
2495	Millinery goods, N. O. S.	1	..
1788			
2496	Straw braid	1	..
2497	Straw goods N. O. S.	D 1	..
2498	Mineral wool	3	D
2499	Minerals:		
2500	Actinolite	4	..
2501	Agolite	4	B
2502	Alum	3	4
2503	Arsenic, crude, in kegs or brls	3	..
2504	Asbestos:		
2505	In boxes, kegs, bags or bales	2	5
2506	In barrels or casks	4	5
2507	Asphaltum	4	D
2508	Barytes	4	5
2509	Black lead in barrels or boxes	2	..
2510	Chalk:		
2511	In boxes	2	..
2512	In barrels or hhds	4	..
2513	French, powd., in bbls. or casks	4	5
2514	Clay:		
2515	Common	..	E
2516	Fire	..	D
2517	Ground in brls., casks or sacks	4	C
2518	Crayons boxed	2	..
2519	Earth, fullers'	4	5
1789			
2520	Feldspar	4	5
2521	Flint, ground in packages	4	5
2522	Fluorspar	4	D
2523	Gypsum	4	5
2524	Kaolin	3	5
2525	Kryolith	3	5
2526	Manganese ore	4	D

2527	Ore, iron	4
2528	Ore, N. O. S. released to valuation not exceeding $100 per ton	4 See special tar
2529	Plumbago in bbls. or boxes	2
2530	Silex:	
2531	In boxes, barrels or bags	4
2532	In bulk	..
2533	Silica:	
2534	In boxes, barrels or bags	4
2535	In bulk	..
2536	Talc	4
2537	Terra alba	4
2538	Whiting	4
2539	Whiting and earth paint, dry	..
2540	Zinc, ore	..
2541	Models, plaster, anatomical, packed in boxes, barrels or casks O. R. B.	1
2542	Mohair	1
1790		
2543	Moldings and tenter frames and hooks:	
2544	N. O. S.	D 1
2545	In bundles, released	1
2546	Boxed	1
2547	Wrapped or packed, released, minimum weight 10,000 pounds	2
2548	Money-changers (coin-holders) boxed	1
2549	Monuments, bronze and metal, boxed, released	1
2550	Mops:	
2551	In bundles	1
2552	In boxes	2
2553	Mop racks:	
2554	N. O. S.	D 1
2555	K. D. flat boxed or crated	2
2556	Moss, in sacks O. R. of fire	1
2557	Moss, N. O. S pressed in bales, O. R. of fire	2
2558	Moss wet	..
2559	Mug cases and bases for same, boxed or crated	1
2560	Music, sheet, in boxes, O. R.	1
2561	Musical instruments:	
2562	Band or string instruments N. O. S. bxd., O. R.	D 1
2563	Drums:	
2564	N. O. S. boxed O. R.	4 t 1
2565	Taken apart, shells nested, all parts boxed	D 1

2566	Music boxes, boxed O. R.	D 1	..
2567	Musical instruments, N. O. S. boxed O. R.	1	..
1791			
2568	Musical-instrument cases, boxed O. R.	1	..
2569	Organs, church or cabinet, and melodeons, bxd. O. R.	1	..
2570	Organs, cabinets, and melodeons, released, loaded and unloaded by owner min. wt. 8,000		
2571	pounds	1	..
2572	Organs, cabinet, and melodeons, L. C. L. not boxed not taken.		
2573	Pianos boxed O. R.	1	..
2574	Pianos not boxed, not taken.		
2575	Piano cases in the white, K. D. flat, boxed or crated.	2	3
2576	Piano legs boxed O. R.	1	..
2577	Piano plates, cast iron, bxd. released	2	..
2578	Piano stools:		
2579	O. R.	D 1	..
2580	Boxed or crated O. R.	1	..
2581	N.		
2582	Nails:		
2583	Hungarian nails, in bxs. brls. or kegs	2	..
2584	Iron nails:		
2585	In bags	2	..
2586	N. O. S. in boxes	2	..
2587	Horse in boxes	3	5
2588	Shoe in bxs. brls. or kegs	2	..
2589	Wire in boxes	3	..
2590	Wire in bulk, in kegs, at actual weight, but not less than 106 lbs. per keg	4	4
2591	Wire nails in packages, packed in kegs	3	..
1792			
2592	Iron nails and spikes, N. O. S. in kegs, at actual weight, but not less than 106 pounds		
2593	per keg	4	5
2594	Iron tacks and carpet nails, in boxes or kegs	2	..
2595	Nets and netting N. O. S. in boxes	1	..
2596	Nickel railing, boxed, released	1½	..
2597	Nickel scrap	3	..
2598	Notions:		
2599	Fans, boxed	1½	..
2600	Fire-crackers and fire-works, tightly boxed, released.	D 1	1

2601	Flags, mounted, boxed	1	..
2602	Notions, N. O. S. bxd. O. R.	1	..
2603	Pins	2	..
2604	Nursery stock:		
2605	Bulbs, boxed, P. P.	1	..
2606	Grafts, fruit tree, in bxs. or barrels O. R. P. P. or guaranteed	2	B
2607	Grape cuttings, boxed O. R. P. P. or guaranteed	2	B
2608	Osage-orange plants P. P.	1	B
2609	Plants, N. O. S.:		
2610	In bales, O. R. P. P.	D 1	..
2611	In boxes O. R. *F.* P.	1	..
2612	Trees, Christmas P. P.	1	C
2613	Trees and shrubbery O. R., charges P. P. or guaranteed, at carriers' option:		
2614	Boxed, when same can be loaded in box or stock cars.	3	B
2615	Boxed, when to- large to be loaded in box, or stock cars	1	B
1793			
2616	In bales completely wrapped, each weighing 100 pounds or over	1	B
2617	In bales, each weighing less than 100 pounds	D 1	B
2618	NOTE.—In no instance will the charges upon a shipment of bales, weighing less than		
2619	100 pounds each, exceed charges on same at estimated weight of 100 — each at		
2620	first-class rate.		
2621	Willow cuttings in boxes or bales	2	B
2622	Nuts, edible:		
2623	Cherry stones, in brls. boxes or bags	3	..
2624	Cocoanuts, in boxes, bags, brls. or hhds.	2	A
2625	Cocoanuts may be loaded in mixed car-loads with bananas or other green fruit at same		
2626	rate as the fruit.		
2627	Cocoanuts and nuts edible	..	3
2628	Hickory nuts	2	A
2629	Nuts, edible, N. O. S.:		
2630	In sacks O. R.	1	3
2631	In boxes or barrels	2	3
2632	Pecans	..	A
2633	Peach stones, in brls. boxes or bags	3	..

O.

Oils.

Burning fluid:

O. R. of leakage		1	..
C. R.	3 t 1		..

1794

Butter color:

In glass, boxed O. R.		1	..
In barrels O. R.		3	4

Camphene:

O. R. of leakage		1	..
C. R.	3 t 1		..
Coal-tar oil in barrels		..	D
Cocoanut oil (in liquid or solid form) in barrels O. R.		3	4

Cod-liver oil:

In glass boxed O. R.		1	..
In barrels O. R.		3	4

Cotton-seed oil:

In cans, boxed, or in barrels O. R.		3	5
In tank cars furnished by shippers		..	5
Gasoline, in tin cans jacketed		..	1½

Lard oil:

In barrels O. R.		3	5
In tin cans boxed		..	5

Linseed oil:

In brls. or cans, bxd., O. R.		3	5
In tank cars furnished by shippers		..	5
Lubricating oil N. O. S. in tin cans, boxed		..	4
Mineral soap stock, in wood O. R.		3	5

Oils, in glass, cans, or jugs, not packed not taken.

1795

Oils, N. O. S.:

In glass or stone, in open boxes or kegs O. R.	D 1		..
In baskets O. R.	D 1		..
In tin cans, jacketed O. R. L released		1½	..
In tin kegs flat tops, inclosed in veneer jackets		1	..
In glass boxed O. R.		1	..
In tin cans (round or square) boxed O. R.		1	..
In barrels O. R.		3	4
Oil residu-m, in wood O. R.		3	5
Olive oil, O. R. in glass, boxed		1	..

2673	Petroleum and its products, including benzine, benzole, carbon, gasoline, lubricating,		
2674	and naphtha, but exclusive of petroleum, axle grease, and compound oils:		
2675	In iron brls. actual wt. O. R.	3	5
2676	In wood, at 400 pounds per brl. O. R.	3	5
2677	In half barrels, will be taken at actual weights.		
2678	In cases, at 80 pounds per case, O. R.	3	5
2679	NOTE.—Rating given for cases applies only upon petroleum oils in tin cans, boxed.		
2680	In tank cars furnished by shippers, at 6.3 pounds per gallon O. R.	..	5
2681	Pine oil N. O. S. in wood	3	5
2682	Resin oil, in barrels O. R.	3	5
2683	Wood-preserving oil (creasote and dead oil) in wood.	4	C
2684	Oil cake	4	C
2685	Oil-cake meal	4	C
1796			
2686	Oilcloth.		
2687	Oilcloth, floor, and linoleum:		
2688	In bales or crates, 12 feet or over in length	1	3
2689	In boxes or crates, under 12 feet in length	2	3
2690	Not boxed or crated 12 feet or under in length O. R.	1	3
2691	Not boxed or crated, over 12 feet in length	D 1	3
2692	Oilcloth N. O. S. in bxs. or crates	1	..
2693	Opera glasses, boxed O. R.	D 1	..
2694	Ordnance stores, N. O. S.	1	..
2695	Ornaments:		
2696	Ornaments, metal, composition, earthenware, plaster of Paris, terra cotta and zinc, in		
2697	boxes or casks, O. R. B. released	1	..
2698	Vases, ornamental, iron or other material for yards, N. O. S.:		
2699	O. R.	1	..
2700	Boxed O. R.	2	..
2701	Ox bows or yokes	2	A
2702	P.		
2703	Packing:		
2704	Asbestos packing, in rolls or boxed	4	5
2705	Asphaltum boiler covering	4	5
2706	Boiler felting	2	..
2707	Boiler covering (made of sheep's wool and cement).	4	C

2708	Boiler covering, mineral wool	4	5
2709	Felt, hair, in bales, released	2	3
2710	Fossil meal, in bags	2	5
2711	Packing, hemp	3	..
1797			
2712	Packing, jute	3	B
2713	Packing, rubber, metallic and soapstone, in boxes or bundles	2	..
2714	Pipe covering:		
2715	Asbestos in rolls or boxes	4	5
2716	Cattle's hair:		
2717	In sacks	1	5
2718	In barrels	2	5
2719	Pressed in bales	3	5
2720	Felt	2	..
2721	Mineral wool	4	4
2722	Packing-house products.		
2723	Beef:		
2724	Dried, loose	1	5
2725	Dried, in boxes, barrels or crates	4	5
2726	Fresh O. R. P. P. or guaranteed	1	3
2727	Mixed car-loads of dressed beef and other packing-house products	..	3
2728	Pickled	4	5
2729	Bladders:		
2730	Dry, flat, in boxes or barrels	1	..
2731	Pickled in barrels or tierces	4	..
2732	Bones:		
2733	In sacks or barrels	4	D
2734	C. L. (See also junk)	..	D
2735	Bristles	1	..
1798			
2736	Cracklings, in packages. (See also hides)	4	5
2737	Evaporator tank, water	..	E
2738	Glue stock:		
2739	In brls. or hhds.	4	D
2740	Green in sacks, not taken.		
2741	Dry, in bundles	1	..
2742	Scrap, dry	..	D

2743	Hides, sheep pelts, hog and goat skin:	
2744	Dry, loose	1½
2745	Dry, in bdls	1
2746	Dry pressed in bales	2
2747	Dry, min. wt. 10,000 lbs	2
2748	Green, in bundles	3
2749	Green, and bones, grease, tallow, horns, hoofs, tails and cracklings	..
2750	Hog intestines, uncleaned in boxes or barrels	4
2751	Hogs dressed, O. R. of weather and delay of trains.	2
2752	Hoofs and horns, packed. (See also junk)	4
2753	Lard:	
2754	In crocks or cans O. R	1
2755	In boxes, buckets and jackets cans	2
2756	In cans, boxed or crated	4
2757	In barrels or tierces	4
2758	In tin-lined tubs	3
2759	In tubs (not tin-lined)	2
1799		
2760	Meats, dried or desic-ated, in cans or bxs. (See also preserves)	4
2761	Meats (hog), dried, salted, or smoked:	
2762	In bags	2
2763	In boxes, barrels or crates	4
2764	In bulk	5
2765	Meats, N. O. S., dried, salted, or smoked:	
2766	In bags	2
2767	In boxes, barrels or crates	4
2768	In bulk	5
2769	Meats, fresh, N. O. S. O. R. P. P. or guaranteed	1
2770	Meats, sausage O. R	2
2771	Neutral:	
2772	In boxes, buckets or cans. bxd	2
2773	In brls. or tierces	4
2774	Oleo oil, in wood or tin O. R	2
2775	Pigs' feet pickled	4
2776	Pork scraps; pork trimmings; pork tenderloins, in packages	3
2777	Sausage casings:	
2778	Dry, in boxes	1
2779	Pickled in barrels or kegs	3

2780	Sausage:		
2781	Fresh O. R	2	4
2782	Dried, in boxes or barrels	4	..
2783	(Except pork) dried, in boxes or barrels	..	5
1800			
2784	Sheep pelts, pickled, in barrels	3	5
2785	Smoked tongues, in casks or boxes	4	..
2786	Stearine	4	5
2787	Tails, cattle, dry in bale	1	..
2788	Tails, cattle, green salted, in barrels	3	..
2789	Tails, N. O. S.:		
2790	In bales	3 t 1	..
2791	In boxes	1	..
2792	Tallow	4	5
2793	Tripe	4	..
2794	Paintings, pictures, photographs, panorama, scenery:		
2795	In packages, contents of each package not to exceed $50 in value and so receipted		
2796	for, boxed	D 1	..
2797	Boxed, valuation as above, released	1	..
2798	Boxed, released, value $50 per package, but not exceeding $200 and so receipted for	D 1	..
2799	In packages, value over $200 per package, taken by special contract only.		
2800	Paint pots:		
2801	Loose	D 1	..
2802	In boxes or barrels	1	4
2803	Nested in boxes, brls. or crates	2	4
2804	Paints:		
2805	Paint-driers, liquid, in barrels or kegs, valuation not over $10 per brl. and so stated		
2806	on dray ticket or shipping receipt by shipper O. R	3	4
2807	Paint-driers, ground dry	4	5
1801			
2808	Paint, asphaltum tar	4	D
2809	Paint, wood filler	4	..
2810	Paints, dry earth, ground iron ore, smalts, and ochre:		
2811	In casks or barrels	4	C
2812	In bulk	..	C

2813	White lead, red lead, or litharge:		
2814	In casks or barrels	4	5
2815	Litharge in kegs	4	5
2816	Oxide of zinc in casks or brls	4	5
2817	Chemical, in barrels, kegs and boxes	4	5
2818	Paints in oil, white lead or zinc, asphalt, chemical parraffine, rubber, iron and earth, and		
2819	paint stain:		
2820	In cans (round or square) boxed or crated, or in barrels, kegs or kits, iron pails		
2821	(wooden covers) or in tin kegs, flat tops, inclosed in veneer jackets	4	5
2822	In cans, not boxed or crated	1	..
2823	Paints, in pails, N. O. S. O. R	D 1	..
2824	Paints, N. O. S. in boxes or cans	2	..
2825	Paris green	2	4
2826	Shellac	2	..
2827	Palm leaves, in bales		
2828	Pampas plumes, in bales, released, or in boxes	1	..
2829	Paper:		
2830	Binders' board	3	5
2831	Blotting paper, in bundles	3	5
1802			
2832	Book, cover and writing paper, flat in original sheets, unruled, and uncut, in boxes, crates		
2833	rolls or bundles	5	..
2834	Book and newspaper, unrulled	..	5
2835	Bristol boards	2	..
2836	Building, roofing and straw wrapping paper, felt paper for carpet lining and felt paper for		
2837	roofing	4	B
2838	Card-board or card-paper	2	..
2839	Cards	1	..
2840	Crates, containing damaged paper, returned to paper manufacture-s	..	4
2841	Emery-paper, boxed	2	..
2842	Flint-paper, boxed	2	..
2843	Fly-paper, in boxes or bundles	1	..
2844	Glazed paper O. R. in bundles or bales	1	..
2845	News or print paper, in rolls, bdls. or crates or flat manillas in crates (colored or uncolored)	4	5
2846	Paper, in boxes, N. O. S	1	..
2847	Paper bags in bundles or boxes	3	5
2848	Paper bags and wrapping paper	..	5
2849	Patent insides in bundles	2	..
2850	Pattern paper, tailors' in rolls O. R	3	..

Sand-paper, in boxes, bdls. or rolls	2	..
Shelf-decorating paper, in bundles or boxes	1	..
Tissue and closet paper, in bundles or rolls, crated	2	..
Wood-pulp board	4	B
Wood-pulp board and straw-board	..	B
Wrapping paper N. O. S. in bundles O. R.	3	5
Wrapping paper, oiled or waxed in boxes	1	..
Wrapping paper printed in bdls.	2	5
Wrapping paper (rag, straw, or folded manilla) in bundles or manilla rolls	4	B
Straw-board, plain or lined	4	B
Paper ballo-ns, flat, boxed	D 1	..
Paper-cutters, for counter use	2	..
Paper doors, O. R.	1	..
Paper lanterns, K. D. boxed	D 2	..
Paper masks:		
Boxed	4 t 1	..
Nested, boxed	D 1	..
Paper oyster-pails, nested, in bundles, boxes or crates	1	..
Paper tubes, boxed or crated	1½	..
Papier-maché, unfinished	1	3
Papier-maché goods N. O. S. boxed	D 1	..
Paste, flour in barrels	4	5
Patrol-boxes:		
Crated	D 1	..
In car-loads	..	5
Patterns, wooden or metallic, O. R. of breakage	1½	..
Paving and roofing material:		
Asphaltum tiling or blocks, O. R.	4	E
Canvas roofing or siding	3	B
Cement paving, tar or pitch	4	D
Cement paving blocks	..	E
Iron roofing, N. O. S.:		
In boxes, bdls. crates or rolls	4	5
Loose	..	5
Iron roofing flanges:		
In bundles	2	..
In boxes	3	..
Iron trusses for iron roofs	4	5
Jute roofing	3	B

2890	Pitch	4	D
2891	Roofers' outfit (second-hand)	..	5
2892	Roofing asbestos, in boxes or rolls	4	5
2893	Roofing cement, granite and tar prepared	4	5
2894	Roofing, tin	4	5
2895	Rubber roofing material	4	5
2896	Sea-shell paving	4	E
2897	Shingles, tin, iron or steel, boxed	4	5
2898	Slate, roofing, O. R.	3	D
2899	Slate, granite or stone paving, rubble, hammered and sawed, curbing and flagging	4	E
2900	Stone, all kinds, crushed for road-building	4	E
2901	Tar, N. O. S.:		
2902	In buckets and pails O. R.	2	D
2903	In barrels or cases O. R.	4	D
1805			
2904	In cans, packed in barrels	4	D
2905	In cans O. R.	2	D
2906	Tile, roofing O. R.	4	D
2907	Tile, sidewalk, cement:		
2908	Boxed or crated, released	4	..
2909	In car-loads O. R.	..	C
1910	Tiling floor or facing, encaustic, glazed or unglazed in packages O. R. of breakage	4	..
2911	Tin roofing	4	5
2912	Wood roofing	4	5
2913	Sections of wood roofing, covered with iron shingles.	D 1	..
2914	Perfumery, boxed, O. R.	1	..
2915	Photographs, boxed O. R.	1	3
2916	Photo dry-plates, boxed O. R. released	1	..
2917	Photograph- and photographic material N. O. S. boxed released	1	..
2918	Picket pins N. O. S. in bxs. brls. or crates (see also tent fixtures)	4	B
2919	Pillows N. O. S.	D 1	..
2920	Pine straw:		
2921	In sacks O. R. of fire	1	..
2922	Pressed in bales O. R. of fire	2	..
2923	Pipe:		
2924	Boiler flues, iron	4	..
2925	Iron pipe, spiral seam, N. O. S., O. R.:		
2926	Diameter exceeding 12 inches	1½	5
2927	12 inches or less in diameter	3	5

1806			
1928	Iron pipe and couplings and connections:		
1929	Cast N. O. S.	4	B
1930	Wrought N. O. S.	4	5
1931	Iron pipe, cast covered or lined with cement	4	5
1932	Pipe, sewer:		
1933	N. O. S. O. R. of breakage	3	E
1934	In crates or hhds	4	E
1935	Pipe, wood fibre:		
1936	N. O. S. O. R.	1	4
1937	Boxed or crated	2	4
1938	Pipe, block tin:		
1939	N. O. S.	2	5
1940	In boxes or casks	4	5
1941	Pipe-conductor, galvanized iron or tin:		
1942	N. O. S.	D 1	5
1943	Boxed or crated	1	5
1944	Sewer pipe, sheet iron, lined with cement	4	D
1945	Speaking tubes, tin, boxed or crated	1	..
1946	Steel tubes N. O. S. boxed	4	..
1947	Wrought-iron pipe, for refrigerating apparatus, in coils, nested and headers	3	5
1948	Pipes, smoking:		
1949	Wooden N. O. S. or fancy boxed	1	..
1950	Clay, boxed	2	..
1951	Corn-cob or hickory, boxed	2	4
1952			
1953	Plaster and wall finish:		
1954	Anti-kalsomine	4	5
1955	Alabastine	4	5
1956	Boralumine	4	5
1957	Carton pierre, bdles. released or in boxes	1	3
	Combination stucco and cement-work, and plastic for interior decorating:		
1958	In bundles, released or in boxes or crates	1	3
1959	In car-loads	..	3
1960	Dentists' plaster, in barrels	4	C
1961	Diamond wall finish	4	5
1962	Gypsine	4	5
1963	Kalsomine	4	5
1964	Lincrusta walton in bundles, released or in boxes	1	3

2965	Marbleine	4	5
2966	Paperhangings, in bundles, released, or in boxes	1	3
2967	Papier-maché mouldings, center pieces, cornices and coverings for walls, in crates or		
2968	racks, released or in boxes	1	3
2969	Plaster board (Mackolith)	3	D
2970	Plaster of Paris, in barrels or sacks	4	C
2971	Plaster of Paris mouldings and center pieces:		
2972	Packed	D 1	..
2973	Packed O. R.	1	..
2974	Wall plaster:		
2975	Adamant	4	D
1808			
2976	Silicon	4	D
2977	N. O. S.	4	C
2978	Plaster N. O. S.	4	C
2979	Plaster cloth	4	C
2980	Sizing	2	..
2981	Stucco	4	C
2982	Plates, electrotype and stereotype:		
2983	Boxed O. R. released	1	..
2984	Old, returned to manufacture-s O. R.	4	..
2985	Plates, paper or wooden, boxed or crated	2	A
2986	Plated ware, boxed, released	1½	..
2987	Pampas, plumes, in bales, released, or in boxes	1	..
2988	Plumbers' supplies:		
2989	Basins, marble or crockery, in boxes, brls. or casks	2	..
2990	Bath-tubs, N. O. S.:		
2991	O. R.	D 1	..
2992	Boxed crated or encased in wood	1	..
2993	Bath-tubs, iron, tops boarded, sides protected by iron bands	1	..
2994	Bath-tub seats and fixtures, bxd	2	..
2995	Boilers range, iron, released	3	A
2996	Crockery urinals, in bxs., barrels or crates O. R.	2	..
2997	Crockery or earthenware, water-closet bowls, O. R.	2	..
2998	Fire-plugs water gates	4	5
2999	Fire-plugs, water gates and iron pipe	..	5
1809			
3000	The ratings on water gates should be confined in their application to straight way		
3001	iron valves, not less than three inches in diameter.		

3002	Grease traps, cement:		
3003	N. O. S. O. R. B.	3	E
3004	In crates or hhds.	4	E
3005	Hydrants, yard:		
3006	O. R.	1	5
3007	Boxed O. R.	2	5
3008	Iron service-boxes	4	5
3009	Iron sinks:		
3010	O. R.	2	5
3011	Nested O. R.	3	5
3012	Muffles for assayers' furnaces	2	..
3013	Range boiler stands	3	..
3014	Slate wash-tubs, boxed or crated O. R.	3	..
3015	Soapstone sinks, boxed or crated	2	..
3016	Traps, iron or steel:		
3017	O. R.	2	4
3018	Nested O. R.	3	4
3019	Traps, lead, packed	2	..
3020	Tubs and sinks:		
3021	N. O. S. cement or granite, crated O. R.	3	..
3022	Crockery, boxed or crated O. R.	3	..
3023	Water-closets, boxed or racked released	1	..
1810			
3024	Water-closet tanks:		
3025	Copper-lined boxed	2	4
3026	Iron O. R.	2	4
3027	Iron nested O. R.	3	4
3028	Plumbers' materials, N. O. S. in boxes or casks	2	..
3029	Porcelain ware:		
3030	In barrels, boxes or kegs O. R.	1	..
3031	In casks or hhds. O. R.	2	..
3032	Postal bag racks	3	..
3033	Post-office wood-work, N. O. S. K. D. flat and packed.	1	..
3034	Post, hitching, wooden or iron, O. R.	2	..
3035	Powder magazines, stationery, completely K. D.	3	B
3036	Preservatives, food:		
3037	Cream preservative, O. R.	1	..
3038	Preservatives, food, N. O. S. O. R.	1	..
3039	Salts, meat-preserving (preservaline)	4	5

3040	Preserves:		
3041	Canned fish (not sardines) fruit, meats, soups, and vegetables, N. O. S. boxed		
3042	(see also pickles)....	4	5
3043	Eggs, condensed, in cans, boxed.....	3	5
3044	Pickles, catsup, horse-radish (prepared), mustard (prepared), and olives:		
3045	In glass, packed in bxs., brls., or kegs, O. R.....	2	5
3046	In brls., kegs, kits or casks.....	4	5
3047	In wooden pails or tubs	1	5
1811			
3048	In wooden pails, boxed.....	4	5
3049	Catsup, in tin cans, crated	3	5
3050	Catsup, in tin cans, boxed	4	5
3051	Pickles; catsup; horse-radish (prepared); preserves; jelly, fruit butter; mincemeat;		
3052	mustard (prepared); olives; oysters (pickled or cove); soups; table sauce, in-		
3053	cluding pepper sauce and fish (except sardines) fruit, meat and vegetables		
3054	(not green dried or deisc-ated); in wood, in tin cans, boxed, or in glass, packed		
3055	in bxs. or brls.....		5
3056	Preserves, jelly, fruit butter, or mincemeat:		
3057	In glass, packed in brls. or bxs. O. R.....	2	5
3058	In tin cans bxd. O. R.....	4	5
3059	(See also pickles.)		
3060	In barrels, kits or kegs, O. R...	4	5
3061	In buckets, pails or tubs, O. R.....	1½	5
3062	In buckets or pails, bxd. O. R.....	4	5
3063	Mincemeat:		
3064	In cans, not packed, O. R.....	1½	..
3065	In paper boxes, boxed..... ..	3	5
3066	Table sauce, including pepper sauce:		
3067	In glass, in bxs. brls. or casks O. R. (See also pickles)	1	..
3068	In bulk, in brls. or casks	4	..
3069	For description of packages entitled to be rated as kits see kits.		
3070	Printed matter, bxd. or in bdls. O. R..... .	1	..
3071	Printers' cabinets, crated.....	2	B

1812

3072	Printers' cases in bundles	3	B
3073	Printers' form-table frames or stands S. U.	1	B
3074	Cast-iron tops for same	3	B
3075	Printers' stand-, K. D. in bundles	3	B
3076	Printers' chases, iron, in boxes or crates	2	..
3077	Printers' elastic composition, for rollers, in barrels or boxes	2	..
3078	Pudding:		
3079	In paper packages boxed	3	..
3080	Canned, boxed	3	..
3081	Pulleys, hay, N. O. S. in boxes or barrels	3	5
3082	Pumps.		
3083	Beer pumps:		
3084	S. U.	1½	..
3085	K. D. boxed	2	..
3086	Chair pumps and fixtures O. R.	1	A
3087	Elevator bucket pumps, K. D. packed in pump cases, or in crates or barrels, released	3	A
3088	Iron pumps, N. O. S.:		
3089	Loose O. R.	1	A
3090	In boxes or casks	3	A
3091	Oil pumps and caps for oil barrels, bxd. or crated, released	D 1	..
3092	Pump tubing, wooden	See lumber tariff	
3093	Pomps, suction, and tubing wooden	3	B
3094	Pump cylinders, percelain-lined:		
3095	Loose	1	5

1813

3096	In boxes crates or barrels	3	5
3097	Pump rods, wood, iron or steel	4	5
3098	Pump castings iron, not machine-finished, in bxs. brls. or casks	4	5
3099	Sucker rod, joints, iron, cast:		
3100	Not machine-finished packed	4	5
3101	Machine-finished boxed	2	5
3102	Steam pumps O. R.	1	A
3103	Tin pumps and fixtures, O. R.	D 1	..
3104	Putty, in barrels or cans or in tin cans boxed	4	5
3105	Putty and paints in oil	..	5

3106	Q.		
3107	Quartermasters' stores N. O. S.....	1	..
3108	Quicksilver:		
3109	In iron flasks.....	1	..
3110	In glass boxed O. R. released....	1	..
3111	R.		
3112	Racks, roll paper, boxed or crated O. R.....	1	..
3113	Rags and paper scrap, O. R. of fire:		
3114	In sacks or bags mt. wt. 14,000 lbs..... ...	2	B
3115	In bales or crates, pressed min. wt. 14,000 lbs.....	3	B
3116	In hogsheads or barrels min. wt. 14,000 lbs.....	3	B
3117	Charges should not exceed what would accrue by the application of class D rates		
3118	min. wt. 20,000 lbs.		
3119	Rags...		D
1814			
3120	Charges should not exceed what would accrue by the application of class B rates		
3121	min. wt. 14,000 pounds.		
3122	Rags, loose not taken.		
3123	Railway equipment, machinery, and supplies.		
3124	Cars:		
3125	Sleeping, parlor, chair, dining, 20 cents per car per mile.		
3126	Passenger and combination 18 cents per car per mile.		
3127	Baggage, mail, express 15 cents per car per mile.		
3128	Box, stock, flat, caboose, coal 10 cents per car per mile.		
3129	Ballast-spreaders (dump cars with spreading attachments).		
3129	Hauled in train 10 cents per car per mile.		
3130	Loaded on flat cars..... ..		A
3131	The above rates will also apply upon narrow guage — upon standard guage trucks		
3132	furnished by shipper.		
3133	Narrow-guage cars, loaded on standard guage flat cars.....		A
3134	Standard-guage cars K. D. loaded on flat cars..... ..		A
3135	Dump cars, K. D. released....		A

3136	Hand, push or mining cars	1	A
3137	Inspection cars, steam	1½	A
3138	Logging cars narrow *guage*	1	A
3139	Cars and steam motors combined:		
3140	When flat cars 36 feet or less in length are furnished min. wt. 20,000 pounds	..	A
3141	When flat cars over 36 feet in length are furnished min. wt. 24,000	..	A
3142	Street cars one-horse min. wt. 6,000 pounds	1	..
1815			
3143	Street cars two-horse, min. wt. 8,000 lbs	1	..
3144	Street cars K. D. loaded in box cars	..	A
3145	Street cars and motor combined actual weight	1½	..
3146	Street cars; also street cars and motors combined; motor cars without trucks:		
3147	When flat cars 36 feet or less in length are furnished min. wt. 20,000 pounds	..	A
3148	When flat cars over 36 feet in length are furnished min. wt. 24,000 pounds	..	A
3149	Street-car material in the white K. D. in bundles boxes or crates	3	A
3150	Street-car boot- (platform-, steps, and dash-board-):		
3151	S. U	1	A
3152	K. D. in bundles boxes or crates	3	A
3153	Tank cars:		
3154	Loaded on flat cars	..	A
3155	On own wheels 10 cents per mile, empty return special contract No		
3156	mileage will be paid loaded or empty either way.		
3157	Locomotives and tenders:		
3158	Narrow *guage*, on flat cars (no pass will be given)	..	A
3159	Standard *guage* on their own wheels including transportation for one man in charge		
3160	(no return pass will be given) min. wt. 60,000 lbs.	..	E
3161	NOTE.—In no case shall the charge for each locomotive loaded on flat car exceed the charge		
3162	that would apply if the locomotive was hauled on trucks or on its own wheels.		
3163	Trains steam, on hand	..	A

3164	Extension pile-driver, portable steam-shovel, portable steel-rail saw, snow-plow, steam-		
3165	wrecking train, hauled in train on trucks furnished by shipper one man in		
3166	charged may be passed one way. No return pass will be given.		
3167	Min. wt. 60,000 lbs	..	E
1816			
3168	Steam-shovel fixtures loaded on flat cars	..	A
3169	Railroad excavator and wrecker or trucks actual weight	.	A
3170	Ballast-unloaders	3	A
3171	Brakes and fixtures, car, N. O. S.	1	5
3172	Brasses, car in pkgs	3	..
3173	Car frames wooden	3	D
3174	Car movers or pushers in boxes barrels or crates	4	..
3175	Car seals, lead, boxed	4	..
3176	Car trucks:		
3177	Coal or mining	2	5
3178	N. O. S. S. U	2	..
3179	N. O. S. K. D	4	..
3180	Loaded on flat car	5	..
3181	Car wheels and axles N. O. S.	4	5
3182	Center plates iron or steel	4	5
3183	Fare-boxes for street cars	1	..
3184	Freight-car doors	3	B
3185	Freight-car door-hangers iron boxed or crated	3	5
3186	Gas cylinders R. R. car supply	1	5
3187	Head-lights boxed O. R.	D 1	..
3188	Iron cattle-guards (surface)	2	5
3189	Iron car wheels, axles, draw-bars and bumpers	4	5
3190	Iron rail-bender	3	..
1817			
3191	Iron or steel track-cleaners for street railroads packed flat	4	5
3192	Locomotive cabs:		
3193	Set up	1½	..
3194	K. D.	3	..
3195	Locomotive linings	4	D
3196	Locomotive netting	4	5
3197	Locomotive smoke-box fronts, pressed steel (doors and fittings) boxed or crated	3	5
3198	Locomotive tires	4	..
3199	Motors for street railways N. O. R. loaded on flat cars	5	A

3200	Portable track	5	..
3201	Rails, iron or steel, yokes and fastenings for street railway, mining, cable or motor com-		
3202	panies	4	5
3203	Railway supplies:		
3204	Brake shoes and beams	4	5
3205	Car axles	4	5
3206	Car-couplers	4	5
3207	Car springs (rubber, steel or volute)	4	5
3208	Car wheels	4	5
3209	Coal-chute irons	4	5
3210	Crank pins	4	5
3211	Equalizing bars	4	5
3212	Frogs	4	5
3213	Iron channel bars for freight-car trucks	4	5
3214	Iron or steel rails	4	5
1818			
3215	Links and pins	4	5
3216	Locomotive pilots	4	5
3217	Nut locks	4	5
3218	Rail braces	4	5
3219	Railroad chairs	4	5
3220	Round-house ventilators (cast and wrought iron parts of)	4	5
3221	Semaphore material (iron)	4	5
3222	Spikes	4	5
3223	Splices	4	5
3224	Splice-bolts	4	5
3225	Split switches	4	5
3226	Switch-stands	4	5
3227	Tie-plates	4	5
3228	Ties iron or steel	4	5
3229	Safety gates and attachments	3	A
3230	Seats, locomotive cab:		
3231	S. U. boxed or crated	1	..
3232	K. D. boxed or crated	2	..
3233	Steel steps for street-railway cars crated	3	5
3234	Ties, railroad, wood special contract.		
3235	Torpedoes, railroad, boxed released	1	..
3236	Turn-tables	3	5
3237	Velocipedes, railroad	1	..
3238	Wooden doors and inclines for coal chutes	4	C
1819			
3239	Wooden car bodies S. U	..	A
3240	Reading glass O. R. boxed	D 1	..

3241	Rigging and tackle block, iron or wood:		
3242	O. R.		2
3243	In boxes or barrels		3
3244	Roasters, peanut:		
3245	S. U. boxed or crated O. R.	D	1
3246	K. D. boxed or crated		1
3247	Roasters, coffee:		
3248	Cast iron		1
3249	Cast iron K. D. crated		3
3250	Cast iron K. D. boxed		4
3251	Sheet iron, sample:		
3252	S. U. boxed or crated O. R.	D	1
3253	K. D. boxed or crated		1
3254	Rods, stair, in boxes		2
3255	Rolling partitions wooden and fixtures boxed		2
3256	Roots.		
3257	Canagre roots:		
3258	In sacks or brls. O. R.		
3259	In bulk O. R.		4
3260	Celery roots, in sacks boxes or barrels		1
3261	Ginseng		1
3262	Rice roots in bales		2
1820			
3263	Roots N. O. S. of less value than 10 cents per pound in packages pressed		
3264	Rope, hair		1
3265	Rosin in barrels		4
3266	Rubber and articles of:		
3267	Rubber crude		3
3268	Rubber goods N. O. S.		1
3269	Rubber in sheets		1
3270	Rubber, old:		
3271	In bags		2
3272	In brls. crates or bales		3
3273	(See also junk.)		
3274	Window-cleaners, rubber, boxed		2
3275	Rugs		1
3276	Rustic-work O. R.	D	1
3277	Safes, bread, cheese, meat or milk O. R. rel.		1½

3278	S.		
3279	Safes, iron:		
3280	Entirely at O. R. of chafing and breakage loaded and unloaded by owner as follows:		
3281	Each weighing less than 5,000 —.....	3	..
3282	Each weighing 5,000 lbs. and less than 10,000 —..	2	..
3283	Each weighing 10,000 lbs. or over..... ...	1	..
3284	Safes, iron C. R. of chafing and breakage double above rates.		
3285	Saloon furniture as follows:		
3286	Arm-rails min. wt. 15,000 lbs.....	3	..
1821			
3287	Bottles cases min. wt. 15,000 lbs..... .	3	..
3288	Chairs, min. wt. 15,000 lbs.....	3	..
3289	Counters min. wt. 15,000 lbs.....	3	..
3290	Desks, min. wt. 15,000 lbs.....	3	..
3291	Door, window and bar screens 15,000 lbs.....	3	..
3292	Foot rails min. wt. 15,000 lbs.....	3	..
3293	Marble slabs min. wt. 15,000 lbs.....	3	..
3294	Metal brackets for arm and foot rails min. wt. 15,000 lbs.....	3	..
3295	Partitions min. wt. 15,000 lbs.....	3	..
3296	Refrigerators min. wt. 15,000 lbs.....	3	..
3297	Show-cases min. wt. 15,000 lbs.....	3	..
3298	Sideboards min. wt. 15,000 lbs...	3	..
3299	Tables min. wt. 15,000 lbs.....	3	..
3300	Wainscoting and office railing min. wt. 15,000 lbs..	3	..
3301	Wooden mantels, min. wt. 15,000 lbs.....	3	..
3302	Work-boards min. wt. 15,000 lbs....	3	..
3303	Provisions for articles enumerated above will apply upon the same articles when		
3304	comprising a part of store or office furniture.		
3305	Salt:		
3306	In glass or earthen jars, packed in boxes or barrels.	3	..
3307	In sacks boxes or barrels (See tariff).....	4	..
3308	In bulk (See tariff.)		
3309	Saltpetre	4	5
3310	Salt-roller	4	..
1822			
3311	Sand:		
3312	In packages.....	4	E
3313	In bulk.....	..	E

3314	Sand and sawdust mixed:	
3315	In barrels	
3316	Car-loads	
3317	Sausage-stuffers:	
3318	S. U.	
3319	K. D. boxed	
3320	Saw-bucks K. D	
3321	Saws:	
3322	On boards	
3323	In boxes	
3324	Circular saws with frames	
3325	Drag-saws with horse power	
3326	Scales and scale beams	
3327	Not boxed O. R	
3328	Boxed O. R.	
3329	(See also machinery, automatic machinery.)	
3330	Scale weights boxed	4
3331	Scouring material and compounds:	
3332	Soapstone and dust	4
3333	Polishing and buffing compounds except liquids	4
1823		
3334	Scrapers:	
3335	Pond	3
3336	Road with wheels S. U	1
3337	Road with wheels K. D	2
3338	Road without wheels S. U	2
3339	Road without wheels K. D	3
3340	Scrapers pond and road R. R. grading plows and wheelbarrows	
3341	Provisions for road-scraper is applicable on two-wheel sulky scrapers and drag scrapers	
3342	only and not on four-wheeled road-making machines.	
3343	Screens:	
3344	Door and window, wire, ends cleated, and sides slatted or crated O. R. released	1
3345	Sand, coal or foundry, not riddles O. R	1
3346	Riddles in bundles O. R	D 1
3347	Riddles boxed O. R	1
3348	Screws, bench, iron or wood	2
3349	Screws in kegs	2

3350	Seeds:		
3351	Apple and peach O. R.	3	4
3352	Blue grass, canary, red top, O. R.	2	4
3353	Alfalfa, lucerne, clover, timothy, broom-corn, meadow fescue and rape O. R.	3	A
3354	Beet seed	2	4
3355	Bird seed in packages boxed	2	4
3356	Caraway	1	..
3357	Cotton	4	E
3358	Elder, maple and ash	3	4
1824			
3359	Flax and flax screenings, hemp or millet, O. R. See tariff	4	..
3360	Garden and osage orange O. R.	1	3
3361	Grass N. O. S.	2	4
3362	Garden, returned, O. R. P. P. or guaranteed	3	..
3363	Hungarian and sorghum, same as flaxseed	4	..
3364	Locust-tree seeds	3	4
3365	Mustard seed	2	..
3366	Seeds N. O. S. O. R.	1	..
3367	Sunflower	3	A
3368	Shavings or chips, brewers' or vinegar:		
3369	In bags	1	5
3370	In boxes, bales or barrels	3	5
3371	Shavings for purifying gas:		
3372	N. O. S.	3	D
3373	In bulk	..	D
3374	Shells, oyster, ground or crushed:		
3375	In paper bags, packed	2	..
3376	In burlap or cotton bags, boxes or bbls.	4	..
3377	Shell, oyster, N. O. S.	4	..
3378	Shells, in boxes, brls. or hhds. P. P.	2	..
3379	Ship knees, wood	4	B
3380	Shoddy, shoddy dust, and shear flocks:		
3381	In sacks O. R.	1	..
3382	In bales O. R.	2	..
1825			
3383	C. L. min. wt. 12,000 lbs.	..	3
3384	Shoveling boards	3	C
3385	Show-cards:		
3386	Glass, boxed O. R. P. P.	D 1	..
3387	Other than glass boxed P. P.	1	..

3388	Show-cases, including cigar refrigerators (wood and glass combined):	
3389	Boxed C. R	3 t 1
3390	Boxed, bottoms crated O. R	D 1
3391	Show-cases boxed (bottoms crated) show-case frames and show case supports, O. R.	
3392	min. wt. 12,000 pounds	..
3393	Show-case material, K. D. and packed, released	1
3394	Sieves, N. O. S.:	
3395	Loose	3 t 1
3396	In bundles	D 1
3397	In crates	1½
3398	In boxes	1
3399	(See also tin articles.)	
3401	Signs:	
3402	Barber poles, O. R. P. P	2
3403	Glass signs boxed, O. R. P. P	D 1
3404	Iron and tin signs N. O. S. in boxes or crates, O. R. P. P	1
3405	Wire signs O. R	D 1
3406	Wood signs, O. R. P. P	2
3407	Silk cocoons, in boxes	D 1
1826		
3408	Sinks wooden in bundles and boxes	3
3409	Skates, ice and roller bxd	2
3410	Skylight frames and ventilators, galvanized iron:	
3411	Racked released	1½
3412	Min. wt. 10,000 pounds	..
3413	Slag	..
3414	Snow-shoes	1
3415	Snuff	1
3416	Soap:	
3417	Castile, toilet or fancy	2
3418	Harness oil	4
3419	Soft, in glass boxed	2
3420	N. O. S	4
3421	Soap powder, washing and scouring compounds (exclusive of bluing and crystals)	4
3422	Soap, weed or root, in sacks	4
3423	Soda:	
3424	In packages	4
3425	In bulk	..
3426	Soda fountains and fixtures, boxed O. R	1

3427	Packages having an aperture on each side to indicate the character of the articles		
3428	enclosed, are ratable at first-class.		
3429	Solder, in boxes	3	4
3430	Soluble blue:		
3431	In bulk in casks	4	5
1827			
3432	In packages packed	1	4
3433	Specimens:		
3434	Botanical, valuation not to exceed 5 cents per pound, and so receipted for, re-		
3435	leased O. R.	D 1	..
3436	Fossil, in rock, O. R. P. P.	4	..
3437	Mineral, in the rough, boxed O. R. P. P.	4	..
3438	Mineral and petrified wood, polished N. O. S. boxed O. R	1	..
3439	Spectacles boxed O. R.	D 1	..
3440	Spectacle lenses, boxed O. R.	D 1	..
3441	Spelter	4	5
3442	Spinning wheels	D 1	..
3443	Spoke-drivers	1½	..
3444	Sponges, packed	D 1	..
3445	Spoons, iron or tinned iron, boxed	3	..
3446	Sporting goods and toys:		
3447	Air guns, boxed, released	1	..
3448	Ammunition, fixed	1	..
3449	Archery goods boxed	1	..
3450	Archery goods not boxed not taken.		
3451	Base balls, boxed	1	..
3452	Base-ball bats	2	4
3453	Base-ball bats and croquet sets	..	3
3454	Bicycles, tricycles, and velocipedes, N. O. S.:		
3455	Not box or crated, not taken.		
1828			
3456	Bicycles and tricycles parts of: consisting of rubber tires, saddles, treadles, handles,		
3457	wheels (taken apart) boxed	1	..
3458	Bullets, lead, in boxes or kegs	4	..
3459	Caps, percussion	1	..
3460	Cartridges (ammunition)	1	..
3461	Coaster cars, crated	D 1	..
3462	Croquet sets, boxed (See also base-ball bats)	2	4

3463	Decoy ducks or geese, bxd	1	..
3464	Dolls' carriages, boxed, released	1	..
2465	Dumb bells iron	1	..
3466	Fishing-poles	D1	4
3467	Fishing-rods, jointed, boxed	1	..
3468	Fishing-tackle, boxed	1	..
3469	Fire-arms, boxed, O. R	1	..
3470	Geometrical blocks	1	..
3471	Glass balls, in boxes or barrels	2	..
3472	Gunpowder, common, and black blasting powder of same composition O. R	D1	1
3473	Gun-stocks	2	..
3474	Gun-wads, boxed	1	..
3475	Gymnastic apparatus, K. D. bxd. or crated	1	..
3476	Hobby-horses:		
3477	N. O. S	D1	..
3478	K. D. and boxed	1	..
3479	Indian clubs, in brls. or boxes	2	..
1829			
3480	Lawn tennis sets, boxed	2	..
3481	Marble, in boxes, brls. or cases	2	..
3482	Merry-go-rounds K. D	1	4
3483	Paper target and fixtures O. R	1	..
3484	Shells, cartridges, metallic, returned in boxes, brls. or casks	4	..
3485	Shot:		
3486	In bags N. O. S. O. R	1	5
3487	In bags, boxed	4	5
3488	In pockets, inclosed in gunnies O. R	4	5
3489	In kegs O. R	4	5
3490	In boxes O. R	2	5
3491	Sportsmen's flying targets, clay or pitch, and traps in bxs. or brls	2	4
3492	Stilts, wooden, in bundles	3	..
3493	Swings, wooden, K. D. in bdls. bxs. or crates	2	..
3494	Target frames, wooden, taken apart, all parts except posts, boxed or crated	3	..
3495	Ten-pin balls and pins, boxed	2	..
3496	Toboggans, O. R	D1	..
3497	Toys N. O. S. boxed or released	1	..
3498	Toy alphabetical or building blocks, boxed, released	1	..
3499	Toy drums, boxed O. R	D1	..
3500	Toy torpedoes, in boxes or barrels, O. R	1	..
3501	Toy trunks, boxed	1½	..
3502	Traps, animal or bird, packed flat, in bundles, O. R.	1	..

330			
503	Springs.		
504	Carriage or wagon:		
505	N. O. S.	2	A
506	Boxed	3	A
507	Springs for wagon seats:		
508	N. O. S.	2	A
509	Boxed	3	A
510	Car seat-, wire, coiled, in boxes, barrels or casks	2	4
511	Wire, N. O. S.:		
512	Coiled, in bundles	1	..
513	Coiled, in boxes, barrels or casks	2	4.
514	Stationery:		
515	Clips, letter file, boxed	1	..
516	Desk racks, adjustable K. D. boxed	2	..
517	Document files, wooden parts nested solid, other parts K. D. flat, boxed	2	..
518	Envelopes in boxes	1	..
519	Erasers, blackboard, in boxes	1	..
520	Hectographs, boxed O. R.	1	..
521	Ink in glass or stone, or in paper boxes packed O. R. B.	1	..
522	Ink, writing or printing, in cans, kegs or barrels, O. R. L.	2	..
523	Inkstands, boxed O. R.	1	..
524	Letter-filing cases or document boxes and office-ticklers:		
525	Boxed or crated O. R. D	1	..
526	K. D. flat boxed	2	..
531			
527	Mucilage:		
528	In glass or stone, packed O. R.	1	..
529	In wood	2	..
530	Paper tablets and tabs, boxed, released to valuation 4 cents per pound	2	3
531	Pencils, slate, boxed O. R.	2	..
532	Presses, copying, and stands for same:		
533	O. R.	1	..
534	Boxed	2	..
535	Seal presses, hand, packed	1	..
536	Slates and pencils, school, boxed, O. R.	2	..

3537	Stamps:			
3538	Check-canceling, boxed		1	..
3539	Dating, boxed		1	..
3540	Numbering, boxed		1	..
3541	Pocket, boxed		1	..
3542	Self-inking boxed		1	..
3543	Parts of stamps above enumerated, including moldings, pads and racks, boxed		1	..
3544	Stationery, N. O. S. boxed O. R		1	..
3545	Steam-drying closets:			
3546	S. U. released	D	1	A
3547	K. D. released		1	A
3548	Steam-heating apparatus:			
3549	Radiators, steam O. R		3	5
3550	Steam coils and fixtures		3	5
3551	Steam-heating apparatus, including boilers, O. R. released		3	5
1832				
3552	Stereoscopes, boxed O. R		1	..
3553	Steth-scopes, boxed O. R	D	1	..
3554	Stereopticon lantern and fixtures, boxed O. R	D	1	..
3555	Stock hydrants, wood and fixtures		1	..
3556	Stone and manufactures of same:			
3557	Foot warmers and facings, stone O. R		2	..
3558	Lithographic stones, bxd. O. R		2	..
3559	Marble, granite, jasper, and onyx:			
3560	All kinds C. R	D	1	..
3561	N. O. S. O. R. B		1	..
3562	Blocks, rough-quarried, O. R. B. valuation restricted to 20 cents per cubic foot and so receipted for		4	E
3563				
3564	Marble, granite, jasper, onyx, and slate blocks or slabs, N. O. S., O. R. breakage			
3565	chafing, or chipping, valuation restricted to 40 cents per cubic foot and so			
3666	receipted for:			
3567	Sawed, dressed or hammered, boxed or not boxed		4	D
3568	Chiseled or polished, boxed		4	D
3569	Monuments or tombstones, stone:			
3570	O. R. B. boxed or crated, valuation restricted to 40 cents per cubic foot, and so receipted for, P. P. or guaranteed		4	D
3571				

3572	O. R. breakage, chafing or chipping P. P. or guaranteed	1	..
3573	Marble, broken, valuation restricted to 40 cents per cubic foot, and so receipted for	4	E
3574	Marble or granite statuary:		
3575	C. R.	D 1	..
1833			
3576	O. R. B.	1½	..
3577	O. R. B. valuation restricted to 40 cents per cubic foot, and so receipted for	1	..
3578	NOTE.—Cut-stone, marble tombstones, monuments and statuary, in pieces weighing 5 tons or		
3579	over, to be loaded and unloaded at risk and expense of shipper and consignee.		
3580	Pumice-stone:		
3581	N. O. S.	2	..
2582	Powdered in barrels	3	..
3583	Slate, school (unframed) O. R.	2	4
3584	Soapstone:		
3585	Finish	4	C
3586	Griddles, boxed O. R.	2	..
3587	Slabs, boxed, O. R.	2	..
3588	Stone, N. O. S., including artificial stone:		
3589	Lettered or figured P. P. released	D 1	..
3590	Lettered or figured, boxed or racked P. P. released.	1	..
3591	Dressed (not lettered or figured) released	4	D
3592	Rough, undressed and sawn stone, not further manufactured	4	E
3593	Stoneware (not crockery), N. O. S.:		
3594	Loose or in open packages, O. R. released, to be taken at carrier's convenience	1½	..
3595	In boxes or barrels O. R. B.	2	B
3596	In crates, casks or hhds. O. R. B.	4	B
3597	In bulk O. R. B.	..	B
3598	Stoneware churns, with wooden tops and dashers:		
3599	In boxes or barrels O. R. B.	2	B
1834			
3600	In crates, casks or hhds. O. R. B.	4	B

3601 Provisions for stoneware in boxes, barrels, crates,
3602 casks, and hhds. are applicable on shipments in covered pkgs. only.

3603 Stones, oil, in bxs. O. R..... 1
3604 Whetstones, sand, in bxs. O. R..... 3
3605 Stone-boats..... 2
3606 Storm-houses, wood and iron combined, K. D..... 3

3607 Stoves, stove furniture, furnaces, and parts of:

3608 Castings for hot-water heaters.....C. R. 1½
3609 Cremating stoves or fire-closets and parts of same.C. R. 1½
3610 Fenders (iron).....C. R. 1½
3611 Furnaces.....C. R. 1½
3612 Furnace castings.....C. R. 1½
3614 Grate castings.....C. R. 1½
3615 Grate bars.....C. R. 1½

3616 Hollow ware and stove furniture (consisting of
3617 the following articles made of cast or sheet iron or steel):

3618 Bake-ovens, N. O. S.....C. R. 1½
3619 Blowers.....C. R. 1½
3620 Boilers.....C. R. 1½
3621 Broilers.....C. R. 1½
3622 Cover-lifters.....C. R. 1½
3623 Griddles.....C. R. 1½
3624 Kettles.....C. R. 1½

1835

3625 Pans (ash, drip or fry).....C. R. 1½
3626 Pokers.....C. R. 1½
3627 Pots.....C. R. 1½
3628 Reservoirs.....C. R. 1½
3629 Roasting bake-pans or bakers.....C. R. 1½
3630 Sad-iron heaters.....C. R. 1½
3631 Scrapers.....C. R. 1½
3632 Shakers.....C. R. 1½
3633 Skillets.....C. R. 1½
3634 Spiders.....C. R. 1½
3635 Stovepipe dampers.....C. R. 1½
3636 Stove shovels and tongs.....C. R. 1½
3637 Waffle irons.....C. R. 1½
3638 Registers.....C. R. 1½
3639 Rocking grates.....C. R. 1½
3640 Steam-heaters (portable).....C. R. 1½
3641 Stove plate.....C. R. 1½
3642 Stoves, N. O. S. (including trimmings and ornaments).....C. R. 1½

3643	Tank-heaters.....C. R.	1½	..
3644	Thimble collars iron.....C. R.	1½	..
3645	Articles before enumerated under above heading, except hollow ware and stove furniture		
3646	(as described) released.....	3	5
3647	Hollow ware and stove furniture (as above described) and stove plate:		
3648	Released	2	5
1836			
3649	Crated	3	5
3650	In boxes, barrels or hhds	4	5
3651	Castings for hot-water heaters, cremating stoves or fire closets and parts of same, fur-		
3652	nace and grate castings, grate bars and rocking grates, in bxs. brls. or hhds.....	4	5
3653	Stoves, oval, wood-burning, K. D. in pieces.....	3	5
3654	Stoves, cannon K. D. in pieces.....	3	5
3655	Stoves, gasoline, gas, oil, or vapor:		
3656	(With steel frames) and sheet-iron camp stoves and fixtures with ovens in same package		
3657	or without ovens, O. R. boxed or crated.....	1½	5
3658	Frames of cast iron and fixtures, with ovens in same packages, or without ovens,		
3659	boxed or crated, O. R.....	1	5
3660	K. D. flat boxed.....	2	5
3661	Ovens for gas, oil and vapor stoves, in separate packages	1½	..
3662	Grates and mantels, in mixed car-loads (see mantels).		
3663	Stove-boards, zinc, tin, or iron:		
3664	N. O. S.....	1	5
3665	Racked.....	2	5
3666	Boxed	3	5
3667	Stovepipe and stovepipe elbows, N. O. S. released.. D	1	5
3668	Stovepipe, boxed or crated, released.....	1½	5
3669	Stovepipe elbows:		
3670	In uniform bundles of one dozen each (four elbows, ends lapped in a ring, three rings		
3671	wired securely together) or crated, released....	1½	5
3672	Packed in boxes, released.....	1	5
1837			
3673	Stovepipe iron, cut in shape for stovepipe, nested, solid, boxed or crated released.	3	5

3674 Stovepipe, stovepipe elbows, stovepipe iron cut in shape for stovepipe (nested solid)
3675 coal-hods and sheet-iron dripping pans.....

3676 Stove-boards, coal-hods, zinc, sheet iron, stovepipe and elbows may be loaded with
3677 stoves N. O. S. in car-loads at fifth-class rate.

3678 Stove polish or blacking:

3679 In glass or stone, packed in bxs. or barrels 1
3680 In boxes or kegs..... 2

3681 Bake-ovens, including portable reel-ovens, galvanized or sheet iron:

3682 S. U..... D 1
3683 K. D..... 1
3684 Coal hods or scuttles (see also stovepipe)..... 2

3685 Cookers, steam, tin:

3686 Boxed or crated..... D 2
3687 Nested, boxed..... 1
3688 Cooking crocks (made of tin and earthenware) in bxs. or crates O. R..... 1

3689 Feed-steamers and cookers:

3690 N. O. S..... D 1
3691 Released..... 1

3692 (See also machinery, evaporators.)

3693 Iron stovepipe shelves, boxed O. R..... 3
3694 Ovens, tin, N. O. S. in sacks, O. R. D..... D 1
3695 Sad-irons, in boxes or barrels..... 4
3696 Sheet-iron canopies for ranges, crated..... 1½

1838

3697 When loaded with stoves N. O. S .....
3698 Sheet-iron drums for heating crated..... 1½
3699 Straw pulp..... 3

3700 Stump-pullers:

3701 O. R..... 1
3702 K. D. O. R..... 2
3703 Subsistence stores N. O. S..... 1
3704 Sugar-cane..... 3
3705 Sugar trains..... 1

3706 Surgical appliances:

3707 Crutches and trusses, boxed crated..... 1

3708	Dissecting tables:			
3709	S. O. boxed or crated	D	1	..
3710	Completely K. D. boxed or crated		1	..
3711	Surgical appliances N. O. S. boxed		1	..
3712	Surgical instruments, boxed released	D	1	..
3713	T.			
3714	Tags, paper in boxes		1	3
3715	Tags, tin in boxes		2	3
3716	Tanks:			
3717	Iron tanks empty O. R.	D	1	5
3718	The rating provided should be understood as applying on empty iron tanks N. O.			
3719	S. and is excluding oil tanks.			
1839				
3720	Oil-storage tanks, plate iron:			
3721	Ten feet and under in length		3	A
3722	Over ten and under 30 feet long		1	A
3723	30 feet long or over		1½	A
3724	Oil tanks, hooded:			
3725	Boxed or crated, released		1½	..
3726	Hoods, packed flat in side tanks, crated		1	..
3727	Oil tanks, N. O. S.:			
3728	Released	3	t1	5
3729	Boxed or crated, released		1	5
3730	C. L. min. wt. 15,000 lbs		..	5
3731	Swimming tanks, iron frame, glass removed O. R.	D	1	..
3732	Tanks or vats, wooden:			
3733	S. U.	D	1	B
3734	K. D. or wooden tank or vat-stuff and fixtures O. R.		3	B
3735	Tanks, combination iron and wood used as gas-holders in sections		..	5
3736	Tarpaulins		1	..
3737	Teasels	D	1	..
3738	Tents and fixtures:			
3739	Tent-poles in bundles		3	B
3740	Tent pins and keys:			
3741	In bundles		1	B
3742	In boxes, crates or barrels		4	B
3743	Tent pins, tent keys, and picket pins N. O. S. in boxes, barrels or crates		..	B

3744 Tent poles, tent-pole ridges, tent hooks, peavies and pipe-holes
1840

3745 Tents and fixtures N. O. S. 1
3746 Terra cotta for building purposes 3
3747 Theatrical properties N. O. S. released to valuation of $5 per hundred pounds in case of
3748 loss and so receipted for. P. P. or guaranteed in boxes or trunks boxed 1

3749 Theatrical scenery:

3750 Released P. P. 3 t 1
3751 Boxed released B 1
3752 Ticket cases, boxed or printed released 1

3753 Tile.

3754 Building tile, hollow:

3755 O. R. breakage 3
3756 In crates or hhds. O. R. 4
3757 Decorated art tiles in boxes or barrels O. R. 1

3758 Drain tile:

3759 O. R. of breakage 3
3760 In crates or hhds. O. R. 4
3761 Fire-tile for lining fire-places and chimneys 4
3762 Galvanized-iron tile for malt-house floors 2
3763 Glass tiling in packages O. R. of breakage 4

3764 Marble tile for floors:

3765 Boxed or crated released 4
3766 Loose

3767 Slate tiles for floors:

3768 Boxed or crated released
1841

3769 Loose
3770 Tiling, floor or facing encaustic, glazed or unglazed in packages O. R. of breakage 4
3771 (See also stone and manufactures of.)

3772 Tin articles:

3773 Tin foil 1
3774 Tin crystal finished in sheets, flat boxed 4
3775 Tin, japan-ed or enameled N. O. S. in sheets, flat boxed 2
3776 Tin, pig, bar or slab 2
3777 Tin, perforated for kitchen safes boxed 3

3778	Tin plate, in boxes fully released against wet, rust and damage to tin or package	4	5
3799	Tin scrap in crates or casks	3	D
3780	(See also junk.)		
3781	Tin tops and bottoms N. O. S. nested in boxes or barrels	3	4
3782	Tinware, N. O. S., including galvanized sheet-iron coffee-pots, granite-ware, milk-pan		
3783	covers and bottoms, tin lard pails, tin sieves, tin sifters, tin typewriter covers:		
3784	Loose	D 1	..
3785	In boxes or barrels	1	..
3786	Nested in boxes barrels or crates	2	4
3787	Stamped nested solid	3	4
3788	The above rating is applicable only upon articles that are nested solid, *i. e.*, where		
3789	the outside and bottom surfaces of the article above rest against the inside and		
3790	surface of the bottom of the article below without any intervening space between		
3791	the outside and inside surfaces and will exclude articles with projecting ears		
3792	handles spouts &c. which nest but not solid as above described.		
1842			
3793	Tin lard pails, nested	4	..
3794	Tinners' trimmings in boxes or barrels	2	..
3795	Tobacco:		
3796	N. O. S. in bales, barrels, boxes or kegs or in tight baskets with tight wooden covers		
3797	securely fastened	1	..
3798	Cut in pails	1	..
3799	Cut in pails two or more strapped or racked	1	..
3800	Plug, nugget or twist:		
3801	In pails, two or more strapped together, packages weighing 60 pounds or over	3	..
3802	Plug, in packages, weighing less than 60 pounds each	1	..
3803	In packages weighing 60 pounds or more each	3	..
3804	Two or more butts may be strapped together with wooden straps or two or more		
3805	caddies with iron straps and if the weight of the entire package so formed		
3806	equal 60 pounds the third-class rate will be charged.		

3807	Smoking tobacco:	
3808	In bales	
3809	In barrels boxes or kegs	
3810	Stems	
3811	Tobacco, unmanufactured:	
3812	In hhds. barrels or boxes	
3813	In bales	
3814	Tobacco sheep dip	
3815	Toilet boxes or cases:	
3816	Plush, boxed	D 1
1843		
3817	Filled with toilet sets boxed	1
3818	Tomato pulp in barrels	4
3819	Tools:	
3820	Axes	3
3821	Buck-saw frames:	
3822	In bundles	1
3823	In boxes barrels or crates	2
3824	Camp hooks and peavies (see also tents and fixtures)	3
3825	Crowbars, iron	4
3826	Drain-cleaners in bundles	2
3827	Edge tools, boxed	2
3828	Forks, coke or tanners in bundles	2
3829	Hatchets and hammers	2
3830	Ice tools	1
3831	Iron blacksmiths' cones and mandrels	4
3832	Iron blacksmiths' drills	3
3833	Rating on blacksmiths' drills is applicable on hand drills only and not on power drills.	
3834	Iron drills N. O. S. for drilling machines	2
3835	Iron track tools, viz:	
3836	Mauls, picks, rail forks, sledges, track chisels,	
3837	track punches, track tongs, track wrenches:	
3838	Loose or in bundles	3
3839	In boxes or barrels	4
3840	Mattocks, in boxes or barrels	4
1844		
3841	Pipe poles in bundles crates or boxes (see also tents and fixtures)	3

3842	Planes, hand boxes	2	..
3843	Plane bodies, boxed	2	..
3844	Pokes, animal	1	..
3845	Post augers	1	..
3846	Post-hole diggers	..	..
3847	Cold and hot cutters, countersing chisels,		
3848	flat-ers, fullers, hardies, headers, punches, set-hammers, and swages:		
3849	In boxes barrels or drums	4	..
3850	Tools, mechanics' (chest and contents)	1	..
3851	Tools, marked with card, not taken.		
3852	Tools, N. O. S. boxed	2	..
3853	See also woodenware.		
3854	See also agricultural impts. hand.		
3855	Toothpicks, wooden, boxed	1	5
3856	Tracks:		
3857	Rat in bundles O. R	1	..
3859	Rat boxed	2	..
3860	Trays:		
3861	Gas-house or purifying trays in bundles boxes or crated	3	B
3862	Corn-beef trays	1½	..
3863	Trellises wooden in boxes or crated	1½	..
1845			
3864	Tree-protectors, iron or wood:		
3865	Set up O. R	1	..
3866	K. D. and nested	3	..
3867	Tree-pruners in bundles	1	..
3868	Trough-hangers, wire in boxes or barrels	3	..
3869	Trousers-stretchers	2	..
3870	Trucks (hand):		
3871	Express, baggage or warehouse	1	A
3872	Warehouse K. D. flat boxed or crated	3	..
3873	Trucks house-moving strapped	2	A
3874	Trunks.		
3875	Trunk boxes in the white:		
3876	N. O. S	1½	B
3877	Nested	1	B
3878	Trunk handles, leather in barrels	2	B
3879	Trunk slats, wooden in bundles	2	B

3880	Trunk tops, nested in bundles or crates	3	
3881	Trunks in the white unfinished K. D. in bundles or crates	..	
3882	Trunks:		
3883	Empty, released	1½	..
3884	Nested, wrapped with burlaps or paper	1	..
3885	Filled with valises wrapped with burlaps or paper.	1	..
3886	NOTE.—Shipments of trunks, filled with goods,		
3887	should not be accepted unless boxed (completely enclosed strapped and released).		
1846			
3888	Frames, iron, valises or satchels, boxed	2	..
3889	Iron trunk trimmings, in boxes kegs or barrels	2	..
3890	Traveling bags:		
3891	O. R.	D 1	..
3892	Boxed	1	..
3893	Tubs, steel, coal-hoisting	3	5
3894	Tubs, laundry:		
3895	Indurated fibreware, boxed or crated	2	..
3896	Wooden, zinc lined, crated	2	..
3897	Turtles, packed in barrels, O. R. released	1	..
3898	Tuyeres, clay (boxed) or iron	3	..
3899	Type, boxed	2	..
3900	Type-cleaning compound, boxed	3	..
3901	Typewriters, with covers, boxed O. R.	D 1	..
3902	Typewriter cabinets, boxed, wrapped or crated, released	1	..
3903	U.		
3904	Umbrellas boxed	1	..
3905	Umbrella ribs, sticks, and stretchers, boxed	2	..
3906	V.		
3907	Vaporizers, iron, in boxes or crates	3	..
3908	Varnish:		
3909	In wood O. R.	2	..
3910	In cans (round or square) boxed or in tin kegs, flat tops, inclosed in veneer		
3911	jackets O. R.	1	..
1847			
3912	In tin cans jacketed O. R.	1½	..
2913	In barrels, half barrels or kegs, valuation not over $10.00 per barrel, and so stated		
3914	on dray ticket or shipping receipt by shippers.	3	4

3915	Vaseline:		
3916	In glass or cans, boxed	1	..
3917	In bulk, in barrels	2	..
3918	Vault and prison work:		
3919	Iron vault and prison work	3	5
3920	Vault lights	4	..
3921	Vegetables:		
3922	Asparagus	..	C
3923	Beets	..	C
3924	Cabbage, O. R., P. P., or guaranteed:		
3925	In sacks O. R.	3	C
3926	In bks., crates, brls. or hhds	4	C
3927	Loose C. R.	..	C
3928	Cabbage loose, less than C. L. not taken.		
3929	Carrots, cauliflower, cucumbers	..	C
3930	Egg-plant	..	C
3931	Green corn green peas	..	C
3932	Horse-radish roots, in brls. or boxes, O. R. P. P.	2	C
3933	Lettuce	..	C
3934	Melons	..	C
1848			
3935	Onions or onion sets:		
3936	In sacks or barrels O. R.	3	C
3937	In bulk O. R.	..	C
3938	Oyster-plant	..	C
3939	Parsnips	..	C
3940	Potatoes, N. O. S.:		
3941	In sacks or barrels O. R.	4	C
3942	In bulk O. R.	..	C
3943	Potatoes sweet, O. R.	2	C
3944	Pumpkins, in packages O. R.	3	C
3945	Radishes, rhubarb (pie-plant)	..	C
3946	Spinach, string-beans	..	C
3947	Squash in packages	3	C
3948	Tomatoes	..	C
3949	Turnips:		
3950	In sacks or barrels O. R.	4	C
3951	In bulk O. R.	..	C
3952	Beans, including castor-beans, peas and split peas, dried:		
3953	In sacks	3	5
3954	In barrels	4	5

3955	In bulk	..	5
3956	Celery	1	3
3957	Chicory	2	4
3958	Chili:		
3959	Ground in sacks, O. R.	1	..
1849			
3960	In natural state O. R.	2	..
3961	Garlic	1	..
3962	Pumpkins, dried or desic-ated, in cans, bxs. brls. or sacks, released	3	4
3963	Vanilla beans	D 1	..
3964	Vegetables, N. O. S. O. R. P. P. (see also preserves).	1	..
3965	Vegetables dried N. O. S. or desic-ated in cans or boxes (see also preserves)	4	5
3966	Vegetable ivory-nuts, packed	3	..
3967	Vehicles and parts of:		
3968	Buggies, carriages, sleighs and other light vehicles, also parts thereof, released and at		
3969	O. R. of chafing, fire, weather and breakage min. wt. 12,000 pounds.	3	..
3970	Provision for third-class rating on buggies, car-		
3971	riages, sleighs, and other light vehicles in car-loads, is applicable upon passenger vehicles,		
3972	exclusive only of freight wag- ons, trucks, sleighs and sleds.		
3973	NOTE.—The charges on any shipment of vehicles, above enumerated, should not		
3974	exceed what would accrue by the application of class A rates based on min. wt.		
3975	20,000 lbs.		
3976	Vehicles N. O. S. also parts thereof, released and at owner's risk of chafing, fire, weather		
3977	and breakage	..	A
3978	Vehicles, light and heavy, N. O. S. and parts thereof	..	A
3979	Vehicles, also parts of vehicles, returned to manu-		
3980	facturers for repairs, will be charged half tariff rates when returned by same railroad		
3981	or railroads as originally for- warded; when returned by other railroad or		
3982	railroads than originally for- warded by, full tariff rates will be charged.		
3983	NOTE.—Provisions for vehicles, above shown, do not apply on bicycles tricycles, velocipedes		
3984	or children's vehicles.		

1850			
3985	Vehicles, set up or knocked down, and parts thereof, released and at owners' risk of		
3986	chafing, fire, weather, or breakeage, in less than car-loads as follows:		
3987	Buggies.		
3988	Single and jump-seat with top:		
3989	S. U. 3,000 pounds each	1	..
3990	Taken apart (wheels and shafts or pole detached) and loaded in box car	1	..
3991	Single and jump-seat, including buck-boards:		
3992	Without tops, set up 2,000 lbs. each	1	..
3993	Without top, taken apart (wheels and shafts or pole detached) and loaded in box		
3994	car, 1,500 lbs. each	1	..
3995	Buggies, including buck-boards boxed or crated, sufficiently K. D. to be loaded in box		
3996	car	1½	..
3997	Carriages:		
3998	Ambulance, cab (two-wheeled) *P*ensington ph*ea*ton (extension top and park) surr-y		
3999	(two-seated) T-cart, victoria (or cabriolet) two-seated carriages N. O. S. set up		
4000	4,000 lbs. each	1	..
4001	Brougham (coupé or coupélette) coach (Berlin, mail or stage) he-rse, herdic (four-		
4002	wheeled) landau (or barouche) landaulet, omnibus, rockaway wagonette (or		
4003	carryall) three-seated carriages N. O. S. set up 5,000 lbs. each	..	..
4004	Ambulances and hearses K. D. boxed or crated, loaded in box car	1½	..
4005	Carriages, boxed or crated, sufficiently K. D. to be loaded in box car	1½	..
1851			
4006	Carts.		
4007	Dump, hand, or mining:		
4008	Set up	1½	..
4009	K. D	1	..
4010	Road, speeding or training, set up 750 lbs. each	1	..
4011	Road, taken apart, and loaded in box cars D	1	..
4012	Village or phaeton carts, set up, 15,000 lbs. each	1	..
4013	Carts K. D. wrapped D	1	..

4014	Carts boxed or crated, sufficiently K. D. to be loaded in box car	1½
4015	NOTE.—Carts, road, crated, should meet the following requirements, viz: vehicle	
4016	to be protected on all sides by boards from exposure to rubbing, chafing or	
4017	breakage.	
4018	Drays:	
4019	S. U.	1½
4020	K. D.	1
4021	Sleds, bob:	
4022	S. U.	D 1
4023	Tongue and reach taken out	1
4024	K. D. in pieces tied in bundles	2
4025	Sleighs:	
4026	S. U.	3 t 1
4027	S. U. boxed or crated.	2½ t 1
4028	K. D. loaded in box car.	2½ t 1
4029	K. D. (bodies and shafts removed) all parts crated or boxed	D 1
4030	Sleigh bodies	3 t 1
1852		
4031	Sulkies, including four-wheel skeleton racing wagons:	
4032	Not K. D. and boxed 500 pounds each	1
4033	K. D. and boxed	D 1
4034	Trucks, logging and logging wagons	3
4035	Vehicles, N. O. S. taken apart (wheels and shafts or tongues detached) and loaded in box cars	3 t 1
4036	Wagons, express, peddler, or sewing-machine, N. O. S., and oil-delivery wagons, with	
4037	square, galvanized-iron tanks:	
4038	S. U. 3,000 lbs. each	1
4039	Taken apart, loaded in box car, 1,500 pounds each.	1
4040	Boxed or crated, loaded in box car, actual weight.	1½
4041	Wagons, beer, hose, ice, oil-tank (cylinder), sprinkling, platform-spring, truck, and two-	
4042	horse express, peddler, or transfer:	
4043	S. U. 4,000 lbs. each	1
4044	Taken apart (wheels and shafts or poles taken off) and loaded in box car, minimum	
4045	weight 2,000 pounds each	1

4046	Wagons, Democrat spring:		
4047	S. U. 3,000 lbs. each	1	..
4048	Taken apart, loaded in box car 1,500 pounds each.	1	..
4049	Boxed or crated sufficiently K. D. to be loaded in box car actual weight	1½	..
4050	Wagons, common *on* farm:		
4051	S. U. 3,000 lbs. each	..	..
4052	K. D. in pieces, loaded in box car, actual weight	1	..
4053	Wagons, fire (used by street-pavers) taken apart (wheels and shafts or poles detached)		
4054	and loaded in box car	1	..
1853			
4055	Vehicles, part of, as follows:		
4056	Axle couplings	2	..
4057	Buggy, carriage and cart bodies, bottoms and seats, N. O. S. finished or unfinished		
4058	with or without springs or axles, boxed or crated	1½	..
4059	Buggy, carriage, or wagon tops:		
4060	S. U. boxed or crated	3 t 1	..
4061	Folded flat or wrapped	D 1	..
4062	Flat, boxed or crated	1½	..
4063	Buggy, cart or carriage, poles or shafts	1½	..
4064	Buggy or carriage steps, iron in bundles or boxes	1	..
4065	Carriage-bow sockets, bxd. released	2	..
4066	Carriage-top braces, boxed	3	..
4067	Buggy, carriage or cart seat backs, cushioned, in bundles, bales or crates	1	..
4068	Cushions, buggy, carriage or wagon, in bundles or bales O. R.	1	..
4069	Dash-boards, leather, boxed, O. R.	1	..
4070	Equalizers, for trucks, wagons, and agricultural implements:		
4071	Finished	2	..
4072	In the white (not further finished than primed or shellaced) ironed	3	..
4073	Platform gears, in the white, without springs or axles	2	..
4074	Iron caps for wagon poles and shafts:		
4075	In bundles	1	..
4076	In boxes or barrels	3	..

4077	Jacks, hand, wagon:	
4078	Loose	
4079	Boxed or crated	
1854		
4080	Shafts, buggy, carriage, cart or wagon, finished or unfinished, K. D. in bundles	1
4081	Running gear, buggy, cart or carriage (including wheels N. O. S.) K. D. in crates	
4082	boxes or bundles	1½
4083	Seats, buggy or carriage, iron-backed, nested, in boxes or crates	2
4084	Sled-runners, wooden or iron, in bundles	3
4085	Sleigh bodies:	
4086	Boxed or crated	D 1
4087	Nested, boxed or crated	1½
4088	Sleigh-runners, wooden or iron, in bundles	2
4089	Spokes:	
4090	In the white (not further finished than primed or shellaced)	3
4091	Wagon, finished	2
4092	Buggy, carriage or cart, finished	1
4093	Wagon beds:	
4094	S. U	D 1
4095	K. D. in bundles	1
4096	Wagon brakes and locks, boxed or crated	3
4097	Wagon poles finished	1½
4098	Wagon seats, wood, crated or boxed	1
4099	Wagon-tongue supports	2
4100	Wagons, finished parts of, N. O. S.	1¼
4101	Wheel flanges, cast iron, in boxes, or casks or barrels	4
4102	Wheels, wagon, N. O. S.	1
4103	Wheels, wagon, or carriage in the white (not further finished than primed or	
4104	shellaced)	1
1855		
4105	Wheels, carriage, cart, spring wagon or buggy	1½
4106	Whiffletrees, neck-yokes, singletrees and double-	
4107	trees, for trucks, wagons, and agricultural implements:	
4108	Finished	2
4109	Dipped (not painted) ironed	3

4110	In the white (not further finished than primed or shellaced) ironed	3	..
4110*a*	Eveners and poles for tsucks, wagons or agricultural implements, in the white (not, fur-		
4111	ther finished than primed or shellaced) ironed.	3	..
4112	Vehicles, children's, at O. R. of chafing or breakage, as follows:		
4113	Children's carriages, carts, sleds, sleighs, velocipedes, bicycles and tricycles, wagons,		
4114	and wheelbarrows, boys' toy hook-and-ladder trucks and hobby-horses, min. wt.		
4115	10,000 pounds	..	3
4116	Boys' toy hook-and-ladder trucks, K. D. boxed or crated	2	..
4117	Carriages, baby or children's:		
4118	Set up, wrapped	3 t 1	..
4119	Set up boxed or crated	D 1	..
4120	K. D. flat, one carriage in each box or crate	1	..
4121	K. D. flat, two or more packed together in box or crate	1	..
4122	Children's carriages, to be entitled to the K. D. rating, should have wheels and canopies		
4123	detached, the springs removed or unfastened, and the bodies brought down flat		
4124	on the reaches. Where bodies are mounted on springs shipments are ratable		
4125	as set up.		
4126	Carriage, baby or children's parts of N. O. S. packed in boxes or crates	1½	..
1856			
4127	Carts and wheelbarrows, children's K. D. flat, boxed or crated	2	..
4128	Self-propelling wagons, children's boxed or crated O. R.	1	..
4129	Sleds and sleighs, children's:		
4130	S. U.	D 1	..
4131	K. D. flat boxed or crated	1	..
4132	Sleds, clipper, nested, crated or securely cleated	1	..
4133	Velocipedes, iron, children's boxed	1	..
4134	Wagons, carts, and wheelbarrows, children's:		
4135	S. U.	D 1	..
4136	Boxed or crated	1½	..
4137	K. D. in bundles	1	..
4138	Wagons, children's K. D. boxed or crated	2	..
4139	Ventilators, window, boxed	1	..

4140 W.

4141 Wagon, carriage, and sleigh wood:

4142 Bent (not further finished).....
4143 Sawed or turned (not further finished).....

4144 Lumber may be loaded with wagon, carriage and
4145 sleigh wood, in mixed car-loads, at class B rates.

4146 Wagon-wood, in the rough, sawed to dimensions (not further finished) See lumber tariff.....

4147 Wagon, carriage, and plow material:

4148 Axles (iron or wood).....
4149 Bow-brakes.....
4150 Doubletrees.....

1857

4151 Felloes.....
4152 Gearing.....
4153 Hubs.....
4154 Neck-yokes.....
4155 Plow beams and handles.....
4156 Shafts, singletrees, spokes, springs.....
4157 Thimble skeins, tongues.....
4158 Wagon and plow malleable castings.....
4159 Wagon-wood.....
4160 Wheels.....
4161 Warp and beams 1
4162 Wash-benches, K. D. or folded..... 2

4163 Washing machines, hand:

4164 Not boxed or crated ..... D 1
4165 Boxed or crated O. R..... 1
4166 Min. wt. 10,000 pounds.....
4167 Wash tanks or boxes, for saloon counters, boxed or crated..... 2

4168 Waste and cotton linters:

4169 In bags O. R..... 1
4170 In bales O. R..... 3
4171 Wax figures, images, skeletons and museum outfits,
4172 N. O. S. (exclusive of human beings and at the option of any of the r'y companies to refuse to transport same under
4173 any circumstances) completely bxd. released and P. P..... 3 t 1

4174 When car-load contains live stock one man in charge will be passed free. No return pass.

1858

4175	Wax:		
4176	Beeswax	1	..
4177	Mineral wax crude	4	A
4178	Parrafine wax, in brls. or boxes	2	4
4179	Wax N. O. S.	1	..
4180	Weather strips, in bundles	1	3
4181	Welding compound, in bxs. or brls.	3	..
4182	Well augers:		
4183	In frame or S. U.	1½	A
4184	K. D. pieces	1	A
4185	Completely K. D. and boxed	2	A
4186	Well-bo-ers' outfit (second-hand)	1	A
4187	Wheels:		
4188	Master wheels, N. O. S.	2	..
4189	Propeller wheels, iron O. R.	2	..
4190	Wheels iron N. O. S.	3	5
4191	Wheels, iron for children's vehicles	3	5
4192	Wheels, N. O. S. in crates or bundles	D 1	..
4193	Wheelbarrows:		
4194	N. O. S.	1	A
4195	K. D. flat and compact (trays or seat to be removed from frames and nested together		
4196	in bdls., frames to be tied or fastened together in bundles, legs detached or		
4197	laid down flat, wheels to be also detached and tied together or packed)	2	A
4198	K. D. flat and compact (wheels removed and packed flat in trays, legs and braces packed)		
4199	in trays or laid down flat	2	A
4200	(See also scrapers.)		

1859

4201	Wicking	1	..
4202	Willow-ware:		
4203	Boxed	D 1	..
4204	Not boxed	3 t 1	..
4205	Windlasses	1	..
4206	Windmills, in pieces, O. R.	1	A
4207	Windmill tanks, in pieces, O. R.	3	A
4208	Windmills and iron pumps	..	A
4209	Windmill towers and timber prepared for same	3	B
4210	Windmills, windmill pumps, windmill tanks, windmill towers, timber prepared for		
4211	windmill towers, and agricultural implements	..	A

4212	Window shades, curtains, and fixtures.		
4213	Curtain exhibitors:		
4214	N. O. S.		1
4215	In boxes, barrels, or crates		2
4216	Curtain or shade rollers or slats, window and fixtures, boxed released		2
4217	Curtain rods or poles, N. O. S. boxed released		1
4218	Curtain poles, wooden and fixtures for same, boxed or crated, released		3
4219	Paper curtains O. R		1
4220	Venetian blinds, boxed or crated		1
4221	Window-curtain cornices, bxd. released		1
4222	Window-shade cloths, boxed		1
1860			
4223	Window shades and fixtures, N. O. S. boxed		1
4224	Wire:		
4225	Brass or copper, plain or insulated		2
4226	Cable		4
4227	Fence, barbed and telegraph		4
4228	Iron wire, covered or insulated		4
4229	Rope, copper, in coils or in reels		2
4230	Steel or iron, plain, coppered or galvanized, in bundles or rolls bxs. brls. or casks		4
4231	Woven for mattresses:		
4232	In rolls, boxed		3
4233	In car-loads		
4234	Wire N. O. S.		2
4235	Wire articles:		
4236	Basket, farmers' common nested		1
4237	Box straps, in bundles or in reels		4
4238	Cloth, released		2
4239	Goods, N. O. S.:		
4240	O. R	D	1
4241	Flat or nested, boxed		1
4242	Netting (not wire cloth) in rolls		3
4243	Rope N. O. S.		4
4244	Stall guards in bundles		2
4245	Table furniture, boxed or released		1½
4246	Window guards, for prisons and asylums		3
1861			
4247	Wire reels K. D.		3
4248	Wire-work N. O. S.	D	1
4249	Wood ashes		

4250	Wood petrified, N. O. S.	3	5
4251	Wood pulp	3	C
4252	Wood for pulp	..	E
4253	Wooden and fibreware, consisting of the following articles:		
4254	Bail boxes, barrels bowls, min. wt. 10,000 lbs	..	4
4255	Buckets, bungs, min. wt. 10,000 lbs	..	4
4256	Butter boxes (plain or parra-fined) min. wt. 10,000 lbs	..	4
4257	Butter ladles, butter moulds, min. wt. 10,000 lbs	..	4
4258	Butter plates or trays, min. wt. 10,000 lbs	..	4
4259	Butter tubs (plain or lined with glass or tin) min. wt. 10,000 lbs	..	4
4260	Cheese boxes, churns (hand) min. wt. 10,000 lbs	..	4
4261	Clothes-horses, clothes-lifters, min. wt. 10,000 lbs	..	4
4262	Clothes-pins, clothes-rack-, min. wt. 10,000 lbs	..	4
4263	Drums (wooden, set up) min. wt. 10,000 lbs	..	4
4264	Firkins, fish kits, min. wt. 10,000 lbs	..	4
4265	Kegs, min. wt. 10,000 lbs	..	4
4266	Lap-boards, min. wt. 10,000 lbs	..	4
4267	Measures N. O. S. min. wt. 10,000 lbs	..	4
4268	Pastry-boards, potato-mashers, min. wt. 10,000 lbs	..	4
4269	Rolling pins, min. wt. 10,000 lbs	..	4
4270	Skirt-boards, min. wt. 10,000 lbs	..	3
1862			
4271	Tea-caddies (wood) min. wt. 10,000 lbs	..	4
4272	Trays N. O. S. tubs min. wt. 10,000 lbs	..	4
4273	Wash-boards min. wt. 10,000 lbs	..	4
4274	Water pails (wooden or paper) min. wt. 10,000 lbs.	..	4
4275	Articles above enumerated		
4276	N. O. S. min. wt. 10,000 lbs	1	..
4277	In bxs. brls. or crates min. wt. 10,000 lbs	2	4
4278	Barrel covers boxed or crated min. wt. 10,000 lbs.	2	4
4279	Butter tubs and covers nested in bundles, securely faste-d with wood strips min. wt.		
4280	10,000 lbs	2	4
4281	Wash-boards in bundles securely cleated	2	4
4282	Pails (wooden paper or fibreware) wrapped with straw-board and encased in paper sacks		
4283	min. wt. 10,000 lbs	2	4
4284	NOTE.—Baskets and ladders not exceeding 12 feet in length, handles (ax and mop)		
4285	and wooden plates may be included with the above articles of woodenware, in		
4286	car-loads.		

4287 Woodenware, N. O. S., including ironing-
4288 boards, lemon-squeezers, rope-reels, shot-
cases, sieve-rims, skeners, snow-shovels,
4289 spice cabinets, towel-racks, wooden
faucents, wooden scoops, wooden spoons:

4290 N. O. S. any quantity ... 1
4291 In boxes barrels or crates (any quantity) ... 2

4292 Wool:

4293 In sacks ... 2
4294 Compressed in bales ... 3

1863

4295 The rating (third class) provided for wool com-
pressed in bales should be understood as ap-
4296 plying upon solid compact and heavy packages
or single bales bound with
4297 rope, or with iron or wire hoops or bands.
Several sacks containing wool
4298 strapped together should take second-class rates
as wool in sacks.

4299 Work-benches:

4300 S. U ... 1½
4301 Carpenters, machinists, or cabinet-makers K. D.
boxed ... 3

4302 Wrenches:

4303 Monkey or screw boxed ... 2
4304 Cast iron boxed ... 4

4305 Wringers, clothes, hand:

4306 N. O. S ... D 1
4307 Boxed or crated ... 2

4308 Z.
4309 Zinc:

4310 Dross ... 4
4311 Pigs or slabs ...
4312 Sheet in casks ... 4
4313 Sheet or roll not packed ... 1
4314 Scrap, in bales ... 4

4315 (See also junk.)
4316 The reasonable maximum rate for switching
loaded cars for distance not exceeding
4317 5 miles shall be $2.00 per car.

SEC. 3. That each of the railroads in the State of Nebraska shall charge for the transportation of

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freight from any point in said State to any other point in said State no higher or greater rate of charge than is by this act fixed as the reasonable maximum rate for the distance hauled and the reasonable maximum rates for the transportation of freight by railroad from any point in the State of Nebraska to any other point in said State are declared and established to be as hereinafter in this section fixed for the distance named, and any higher or greater rate for the distance hauled than that herein fixed and established is prohibited and declared to be unlawful; and the reasonable maximum rate herein fixed and established shall be known as the "Nebraska schedule of reasonable maximum rates.

Nebraska Schedule of Reasonable Maximum Rates.

Merchandise rates in cents per hundred pounds.

Miles.	1st class.	2nd class.	3rd class.	4th class.
5	14	11.9	9.34	7
10	14.8	12.58	10.1	7.4
15	15.6	13.26	10.4	7.8
20	16.4	13.94	10.94	8.2
25	17	14.45	11.34	8.5
30	17.6	14.96	11.73	8.8
35	18.2	15.47	12.1	9.1
40	18.8	15.98	12.5	9.4
45	19.4	16.49	13	9.7
50	20	17	13.34	10
55	20.4	17.34	13.6	10.2
60	20.8	17.68	13.87	10.4
65	21.2	18.2	14.14	10.6
70	21.6	18.36	14.4	10.8

1865

75	22	18.7	14.67	11
80	22.4	19.04	14.94	11.2
85	22.8	19.38	15.2	11.4
90	23.2	19.72	15.47	11.6
95	23.6	20.06	15.73	11.8
100	24	20.4	16	12
105	24.8	20.89	16.35	12.33
110	25.6	21.38	16.7	12.66
115	26.4	21.87	17.5	12.99
120	20.72	22.36	17.4	13.32

36	125	28	22.85	17.75	13.65
37	130	28.8	23.34	18.1	13.98
38	135	29.6	23.83	18.45	14.31
39	140	30.4	24.32	18.8	14.64
40	145	31.2	24.81	19.15	14.97
41	150	32	25.3	19.5	15.3
42	155	32.8	25.79	19.85	15.63
43	160	33.6	26.28	20.2	15.96
44	165	34.4	26.77	20.55	16.29
45	170	35.2	27.26	20.9	16.62
46	175	36	27.75	21.25	16.95
47	180	36.8	28.24	21.6	17.28
48	185	37.6	28.73	21.95	17.61
49	190	38.4	29.22	22.3	17.94
1866					
50	195	39.2	29.75	22.65	18.27
51	200	40	30.2	23	18.06
52	210	41.6	31.18	23.7	19.24
53	220	43.2	32.16	24.4	19.88
54	230	44.8	33.14	25.1	20.52
55	240	46.4	34.12	25.8	21.16
56	250	48	35.1	26.5	21.8
57	260	49.6	36.08	27.2	22.4
58	270	51.2	37.06	27.9	23.08
59	280	52.8	38.4	28.6	23.72
60	290	54.4	39.02	29.3	24.36
61	300	56	40	30	25
62	310	56.5	40.5	30.5	25.5
63	320	57	41	31	26
64	330	57.5	41.5	31.5	26.5
65	340	58	42	32	27
66	350	58.5	42.5	32.5	27.5
67	360	59	43	33	28
68	370	59.5	43.5	33.5	28.5
69	380	60	44	34	29
70	390	65	44.5	34.5	29.5
71	400	61	45	35	30
72	410	61.5	45.5	35.5	30.5
73	420	62	46	36	31
1867					
74	430	62.5	46.5	36.5	31.5
75	440	63	47	37	32
76	450	63.5	47.5	37.5	32.5
77	460	64	48	38	33
78	470	64.5	48.5	38.5	33.5
79	480	65	49	39	34
80	490	65.5	49.5	39.5	34.5
81	500	66	50	40	35

Special Car-load Classes in Cents per 100 *Pounds.*

Miles.	5th class.	Class A.	Class B.	Class C.	Class D.	Class E.
5.....	4.9	5	4.9	4.2	3.5	2.8
10.....	5.18	5.5	5.18	4.44	3.7	2.96
15.....	5.46	5.6	5.46	4.68	3.9	3.12
20.....	5.74	5.8	5.74	4.92	4.1	3.25
25.....	5.95	6	5.95	5.1	4.25	3.4
30.....	6.16	6.2	6.16	5.28	4.4	3.52
35.....	6.37	6.4	6.37	5.46	4.55	3.64
40.	6.58	6.6	6.58	5.64	4.7	3.76
45...	6.79	6.8	6.79	5.82	4.85	3.88
50.....	7	7.05	7	6	5	4
55.....	7.14	7.2	7.14	6.12	5.1	4.08
60.....	7.28	7.4	7.28	6.24	5.2	4.16
65.....	7.42	7.6	7.42	6.36	5.3	4.25
70.....	7.56	7.8	7.56	6.48	5.4	4.32
75.....	7.7	8	7.7	6.6	5.5	4.4
80.....	7.84	8.2	7.84	6.72	5.6	4.48
85.....	7.98	8.4	7.98	6.84	5.7	4.56
90.....	8.12	8.6	8.12	6.96	5.8	4.64
95.....	8.26	8.8	8.26	7.08	5.9	4.72
100.....	8.4	9	8.4	7.2	6	4.8
105.....	8.69	9.35	8.63	7.4	6.17	4.96
110.....	8.98	9.7	8.86	7.6	6.34	5.12
115.....	9.27	10.05	9.09	7.8	6.51	5.28
120...	9.56	10.4	9.32	8	6.68	5.44
125.....	9.85	10.75	9.55	8.2	6.85	5.6
130.....	10.14	11.1	9.78	8.4	7.02	5.76
135...	10.43	11.45	10.01	8.6	7.19	5.92
140.....	10.72	11.8	10.24	8.8	7.36	6.08
145.....	11.01	12.15	10.47	9	7.53	6.24
150.....	11.03	12.5	10.7	9.2	7.7	6.4
155..	11.59	12.84	10.93	9.39	7.87	6.56
160.... ...	11.88	13.18	11.16	9.58	8.04	6.72
165.....	12.17	13.52	11.39	9.77	8.21	6.88
170.....	12.46	13.86	11.62	9.96	8.38	7.04
175.....	12.75	14.2	11.85	10.15	8.55	7.2
180.....	13.04	14.54	12.08	10.34	8.72	7.36
185.....	13.23	14.88	12.31	10.53	8.89	7.52
190.....	13.62	15.22	12.45	10.72	9.06	7.68
195.... ...	13.91	15.56	12.77	10.91	9.23	7.84
200.... ...	14.2	15.9	13	11.1	9.39	8
210... . .	14.78	16.56	13.45	11.49	9.71	8.3

125	220.... ...	15.36	17.22	13.9	11.88	10.03	8.6
126	230...	15.94	17.88	14.35	12.27	10.35	8.9
127	240...	16.52	18.54	14.8	12.66	10.67	9.2
128	250	17.1	19.2	15.25	13.05	10.99	9.5
129	260.... ..	17.68	19.86	15.7	13.44	11.31	9.8
130	270... ...	18.26	20.52	16.15	13.83	11.63	10.1
131	280.....	18.84	21.18	16.6	14.22	11.95	10.4
132	290.....	19.42	21.84	17.05	14.61	12.27	10.7
133	300...	20	22.5	17.5	15	12.5	11
134	310.....	20.5	23	18	15.5	13	11.5
135	320...	21	23.5	18.5	16	13.5	12
136	330...	21.5	24	19	16.5	14	12.5
137	340.... ...	22	24.5	19.5	17	14.5	13
138	350.....	22.5	25	20	17.5	15	13.5
140	360.....	23	25.5	20.5	18	15.5	14
141	370.....	23.5	26	21	18.5	16	14.5
142	380.....	24	26.5	21.5	19	16.5	15
143	390.....	24.5	27	22	19.5	17	15.5
144	400.....	25	27.5	22.5	20	17.5	16
145	410.....	25.5	28	23	20.5	18	16.5
146	420..	26	28.5	23.5	21	18.5	17
1870							
147	430.....	26.5	29	24	21.5	19	17.5
148	440.....	27	29.5	24.5	22	19.5	18
149	450.....	27.5	30	25	22.5	20	18.5
150	460..	28	30.5	25.5	23	20.5	19
151	470.....	28.5	31	26	23.5	21	19.5
152	480.....	29	31.5	26.5	24	21.5	20
153	490.....	29.5	32	27	24.5	22	20.5
154	500..	30	32.5	27.5	25	22.5	21

155 *Car-load Classes in Cents per* 100 *Pounds.*

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157 Miles.	Wheat, flour, millet, flaxseed.	Corn, oats, barley, and other grains and mill-stuffs.	Hard and soft lumber, laths, shingles, doors, sash, & blinds.	Salt, lime, cement, stucco.
158				
159 5.....	4.5	3.75	3.5	3.25
160 10	4.7	3.92	3.66	3.39
161 15...	4.9	4.09	3.82	3.53
162 20.....	5.1	4.26	3.98	3.67
163 25.....	5.3	4.43	4.14	3.81
164 30.....	5.5	4.6	4.3	3.95
165 35.....	5.7	4.77	4.45	4.09
166 40.....	5.9	4.93	4.6	4.23
167 45....	6.1	5.09	4.75	4.37
168 50.....	6.3	5.25	4.9	4.51
169 55.....	6.5	5.4	5.04	4.65
170 60....	6.7	5.55	5.18	4.79

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171	65.....	6.9	5.7	5.32	4.93
172	70.....	7.1	5.85	5.46	5.07
173	75.....	7.3	6	5.6	5.2
174	80.....	7.5	6.15	5.74	5.33
175	85.....	7.7	6.3	5.88	5.46
176	90.....	7.9	6.45	6.02	5.59
177	95.....	8	6.6	6.16	5.72
178	100.....	8.1	6.75	6.3	5.85
179	105.....	8.24	6.87	6.41	5.95
180	110..... ..	8.38	6.99	6.52	6.05
181	115	8.52	7.11	6.63	6.15
182	120.....	8.66	7.23	6.74	6.25
183	125.....	8.8	7.35	6.85	6.35
184	130.....	8.94	7.46	6.96	6.45
185	135.....	9.08	7.57	7.07	6.55
186	140..... ..	9.22	7.69	7.18	6.65
187	145.....	9.36	7.79	7.29	6.75
188	150...	9.5	7.9	7.4	6.85
189	155.....	9.63	8.01	7.5	6.95
190	160.....	9.76	8.12	7.6	7.05
191	165.....	9.89	8.23	7.7	7.15
192	170.....	10.02	8.34	7.8	7.25
193	175.....	10.15	8.45	7.9	7.35
194	180...	10.28	8.56	8	7.44

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5	185.....	10.41	8.67	8.1	7.53
6	190..... .	10.54	8.78	8.2	7.62
7	195.....	10.67	8.89	8.3	7.71
8	200.....	10.8	9	8.4	7.8
9	210.....	11.07	9.23	8.61	8
	220.....	11.34	9.46	8.82	8.2
	230.....	11.61	9.69	9.03	8.4
	240.....	11.88	9.92	9.24	8.6
	250.....	12.15	10.15	9.45	8.8
	260.....	12.42	10.37	9.66	8.99
	270.....	12.69	10.59	9.87	9.18
	280.....	12.96	10.81	10.08	9.37
	290.....	13.26	11.03	10.29	9.56
	300.....	13.53	11.25	10.5	9.75
	310.....	13.8	11.48	10.71	9.95
	320.....	14.07	11.71	10.92	10.15
	330...	14.34	11.94	11.13	10.35
	340.....	14.61	12.17	11.34	10.55
	350..... ..	14.88	12.4	11.55	10.75
3	360.....	15.15	12.62	11.76	10.94
	370.	15.42	12.84	11.97	11.13

215	380.....	15.68	13.06	12.18	11.32
216	390.....	15.94	13.28	12.39	11.51
217	400.....	16.2	13.5	12.6	11.7
1873					
218	410.....	16.47	13.72	12.81	11.89
219	420.....	16.73	13.94	13.02	12.08
220	430.....	17	14.16	13.23	12.27
221	440.....	17.27	14.38	13.44	12.46
222	450.....	17.54	14.60	13.65	12.65
223	460.....	17.80	14.82	13.86	12.84
224	470.....	18.06	15.04	14.07	13.03
225	480.....	18.33	15.26	14.28	13.22
226	490.....	18.60	15.48	14.49	13.41
227	500.....	18.87	15.70	14.70	13.60

228 *Live Stock in Dollars, per Car.*

229 Thirty-one-foot cars, inside measurement.

229a 230 231 232 233 234 235 336	Miles.	Horses and mules in carloads, min. wt. 20,000 lbs.	Fat cattle in carloads, min. wt. 19,000 lbs.	Hogs, single deck. in carloads, min. wt. 15,000 lbs.	Sheep, single deck, in carloads, min. wt. 10,000 lbs. lbs.
237	5.....	10.75	9.75	8.50	8.40
238	10.....	11.50	10.50	9.00	8.80
239	15.....	12.25	11.25	9.50	9.20
240	20.....	13.00	12.00	10.00	9.60
1874					
241	25.....	13.75	12.75	10.50	10.00
242	30.....	14.50	13.50	11.00	10.40
243	35.....	15.25	14.25	11.50	10.80
244	40.....	16.00	15.00	12.00	11.20
245	45.....	16.75	15.75	12.50	11.60
246	50.....	17.50	16.50	13.00	12.00
247	55.....	18.25	17.00	13.50	12.40
248	60.....	19.00	17.50	14.00	12.80
249	65.....	19.75	18.00	14.50	13.20
250	70.....	20.50	18.50	15.00	13.60
251	75.....	21.25	19.00	15.50	14.00
252	80.....	22.00	19.50	16.00	14.40
253	85.....	22.75	20.00	16.50	14.80
254	90.....	23.50	20.50	17.00	15.20
255	95.....	24.25	21.00	17.50	15.60
256	100.....	25.00	21.50	18.00	16.00
257	105.....	25.50	21.90	18.30	16.30

258	110.....	26.00	22.30	18.60	16.60
259	115.....	26.50	22.70	18.90	16.90
260	120.....	27.00	23.10	19.20	17.20
261	125.....	27.50	23.50	19.50	17.50
262	130.....	28.00	23.90	19.80	17.80
263	135.....	28.50	24.30	20.10	18.10
264	140.....	29.00	24.70	20.40	18.40
1875					
265	145.....	29.50	25.10	20.70	18.70
266	150.....	30.00	25.50	21.00	19.00
267	155.....	30.50	25.90	21.30	19.30
268	160.....	31.00	26.30	21.60	19.60
269	165.....	31.50	26.70	21.90	19.90
270	170...	32.00	27.10	22.20	20.20
271	175.....	32.50	27.50	22.50	20.50
272	180....	33.00	27.90	22.80	20.80
273	185.....	33.50	28.30	23.20	21.10
274	190.....	34.00	28.70	23.40	21.40
275	185..... ..	34.50	29.10	23.70	21.70
276	200.....	35.00	29.60	24.00	22.00
277	210.....	35.75	30.40	24.80	22.50
278	220	36.50	31.30	25.60	22.70
279	230.....	37.25	32.20	26.40	23.10
280	240.....	28.00	33.10	27.20	23.50
281	250	38.75	34.00	28.00	23.90
282	260.....	39.50	34.90	28.80	24.30
283	270.....	40.25	35.80	29.50	24.70
284	280.....	41.00	36.70	30.40	25.10
285	290...	41.75	37.60	31.20	25.50
286	300.....	42.50	38.50	32.00	25.90
287	310.....	43.20	39.00	32.50	26.70
288	320.....	43.90	39.50	33.00	27.10
876					
289	330.....	44.60	40.00	33.50	27.50
290	340.....	43.30	40.50	34.00	27.90
291	350.....	46.00	41.00	34.50	28.30
292	360.....	46.70	41.50	35.00	28.70
293	370.....	47.40	42.00	35.50	29.10
294	380.....	48.10	42.50	36.00	29.50
295	390.....	48.80	43.00	36.50	29.90
296	400.....	49.50	43.50	37.00	30.31
297	410.....	50.20	44.00	37.50	30.74
298	420.....	50.90	44.50	38.00	31.18
299	430.....	51.60	45.00	38.50	31.62
300	440.....	52.30	45.50	39.00	32.06
301	450.....	53.00	46.00	39.50	32.50
302	460.....	53.70	46.50	40.00	32.94

303	470.....	54.40	47.00	40.50	3
304	480.....	55.10	47.50	41.00	3
305	490.....	55.80	48.00	41.50	3
306	500.....	56.50	48.50	42.00	3

307 *Coal in Cents per Ton of 2,000 Pounds.*

308	Miles.	Hard coal.	Soft coal, lump and nut.	Soft coal, and slac
309	5.....	.60	.30	.25
310	10.....	.64	.34	.28
311	15.....	.68	.38	.31
312	20.....	.72	.42	.34
1877				
313	25.....	.76	.46	.37
314	30.....	.80	.50	.40
315	35.....	.84	.54	.43
316	40.....	.88	.58	.46
317	45...	.92	.62	.49
318	50.....	.96	.66	.52
319	55.....	1.00	.70	.55
320	60.....	1.04	.74	.58
321	65.....	1.08	.78	.60
322	70.....	1.12	.82	.62
323	75.....	1.16	.85	.64
324	80.....	1.20	.88	.66
325	85....	1.24	.91	.68
326	90.....	1.28	.94	.70
327	95.....	1.32	.97	.72
328	100.....	1.36	1.00	.74
329	105.....	1.40	1.015	7.55
330	110.....	1.44	1.03	.77
331	115.....	1.48	1.045	78.5
332	120.....	1.52	1.06	.80
333	125.....	1.55	1.075	81.5
334	130.....	1.58	1.09	.83
335	135.....	1.61	1.105	84.5
336	140.....	1.64	1.12	.86
1878				
337	145.....	1.67	1.135	.875
338	150...	1.70	1.15	.89
339	155.....	1.73	1.165	.905
340	160.....	1.76	1.18	.92
341	165...	1.79	1.195	.935
342	170.....	1.82	1.21	.95
343	175.....	1.85	1.22	.96
344	180.....	1.88	1.24	.98
345	185.....	1.91	1.255	.995

346	190...	1.94	1.27	1.01
347	195.....	1.97	1.285	1.025
348	200..... .	2.00	1.30	1.04
349	210.....	2.04	1.32	1.06
350	220.....	2.08	1.34	1.08
351	230.....	2.12	1.36	1.10
352	240...	2.16	1.38	1.12
353	250.....	2.20	1.40	1.14
354	260.....	2.24	1.42	1.16
355	270...	2.28	1.44	1.18
356	280.....	2.32	1.46	1.20
357	290....	2.36	1.48	1.22
358	300....	2.40	1.50	1.24
359	310.....	2.44	1.52	1.25
360	320.....	2.48	1.54	1.26
1879				
361	330.....	2.52	1.56	1.27
362	340.....	2.56	1.58	1.28
363	350.....	2.60	1.60	1.29
364	360.....	2.64	1.62	1.30
365	360.....	2.64	1.62	1.30
366	370.....	2.68	1.64	1.31
367	380.....	2.72	1.66	1.32
368	390.....	2.76	1.68	1.33
369	400.....	2.80	1.70	1.34
370	410.....			
371	420.....	2.88	1.74	1.36
372	430.....			
373	440.....	2.96	1.78	1.38
374	450.....			
375	460.....	3.04	1.82	1.40
376	470.....			
377	480.....	3.12	1.86	1.42
378	490.....			
379	500.....	3.20	1.90	1.44

SEC. 4. That all railroads touching the same point in this State and at which common point such railroads receive and deliver freight shall at a *pro rata* cost to such railroads build and maintain switches for common use in transferring freight from one such railroad to another and shall receive and forward all such freight according to the provisions of this act. That whenever a shipper of freight from any point in this State to any other point in this State must ship over two or more lines

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of railroads to reach the point of destination, the railroad
pany at the point of shipment shall
make a through weigh bill to point of destination and the
to be charged for such shipment shall not
be the sum of the two or more locals but shall be the ra
hereinbefore in section 3 of this act fixed
for the shortest mileage distance by any railroad route bet
point of shipment and point of desti-
nation. No charge shall be made by any railroad for tran
ring freight from its line to the line of
any other railroad.

SEC. 4. All railroads or parts thereof which may be buil
this State within two years next after
the passage of this act, shall be exempt from the provis
thereof until December 31st 1897.

SEC. 6. Whenever any railroad company or companie
this State shall in a proper action show by
competent testimony that the schedule of rates prescribed
this act are unjust and unreasonable
such railroad or railroads shall be exempt therefrom as her
after provided. All such actions shall be
brought before the supreme court in the name of the railr
company or companies bringing the
same and against the State of Nebraska, and upon the hear
thereof, if the court shall become satis-
fied that the rates herein prescribed are unjust in so far as t
relate to the railroad bringing the action
may issue their order directing the board of transportation
permit such railroad to raise its rates to
any sum in the discretion of the board provided that in no c
shall the rates so raised be fixed at a
higher sum than that charged by such railroad on the first d
of January 1893. Whenever any railroad
company in this State shall claim the benefit of the provisio
of this section it shall be the duty of
such railroad company to show to the court all matters perta
ing to the management thereof and if
it shall appear that said railroad company is operating bran
lines of railroad in connection with its
main line, and all included in one system, then, and in th
case it shall be the duty of the railroad com-
pany to show the court upon which branch or branches or up
which portion of such system the schedule

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of rates prescribed in this act is unjust and unreasonable an
only such portions shall be exempted from

the provisions thereof provided that in no case shall a railroad company be allowed to pool the earnings of all the lines operated under one management, where more than one line is so operated for the purpose of lowering the general average, and provided that no railroad company shall be allowed to bring an action under the provisions of this section for the period of six months after this act takes effect.

SEC. 7. That the board of transportation is hereby empowered and directed to reduce the rates on any class or commodity in the schedule of rates fixed in this act whenever it shall seem just and reasonable to a majority of said board so to reduce any rate. And said board of transportation is hereby empowered and directed to revise said classification of freight as hereinbefore in this act established. whenever it shall appear to a majority of said board just and reasonable to revise said classification provided that said board of transportation shall never change the classification in this act established so that by such change of classification the rates on any freight will become higher or greater than in this act fixed. When any reduction of rates or revision of classification shall be made by said board it shall be the duty of said board to cause notice thereof to be published two successive weeks in some public newspaper published in the city of Lincoln in this State, which notice shall state the date of the taking effect of such change of freight or classification and said change of freight or classification so made by the said board and published in said notice shall take effect at the time so stated in said notice.

SEC. 8. That articles not enumerated in said classification in section two (2) of this act established nor rated in said schedule of rates in section three (3) of this act shall be classed with analagous articles in said classification and where there is any conflict between said classification and said schedule of maximum rates, said rates shall govern.

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SECTION 9. That in case any common carrier subject to the provisions of this act shall do or cause to be done, or permit to be done, any act, matter or thing in this act prohibited or declared to be unlawful or shall omit to do any act matter or thing in this act required to be done such common carrier shall

be liable to the person or persons injured thereby for three times the amount of damages sustained in consequence of any such violation of the provisions of this act together with costs of suit and a reasonable counsel or attorneys' fee to be fixed by the court in which the same is heard on appeal or otherwise which shall be taxed an- collected as part of the costs in the case, provided that in all cases demand in writing on said common carrier shall be made for the money damages sustained before suit is brought for recovery under this section, and that no suit shall be brought until the expiration of fifteen days after such demand.

SECTION 13. All acts and parts of acts inconsistent herewith are hereby repealed.

1883 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of house roll No. 33, a bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, with the printed copy now on file in this office, and that the same is a true and perfect copy of said bill.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln this 9th day of November, in the year of our Lord one thousand [SEAL.] eight hundred and ninety-three, of the Independence of the United States the one hundred and 18th, and of this State the 27th.

(Signed) JOHN C. ALLEN,
Secretary of State.

1884 Legislature of Nebraska.

Twenty-third session.

Amendment to House Roll No. 33.

Recommended by the committee on railroads and ordered printed by the house Feb 21, 1893.

In section 3, from line 9 to line 227, inclusive, amend to read as follows:

Nebraska Schedule of Reasonable Maximum Rates—Merchandise Rates in Cents per Hundred Pounds.

	Miles.	1st class.	2d class.	3d class.	4th class.
1	5	10	9	7	6
2	10	13	10	8	7
3	15	14	11	9	8
4	20	14	12	9.5	9
5	25	14	13	10	9
6	30	16	14	11.5	9
7	35	20	16	13	10
8	40	22	17	14	11
9	45	22	18	14	11
0	50	24	19	14.5	12
1	55	24	20	15	12
2	60	24	21	16	13
3	65	26	22	17	14
4	70	27	23	17.5	15
5	75	28	23	18	16
6	80	28	23.5	18.5	17
7	85	28	24	19	18
8	90	29	24	19.5	18
9	95	29	24.5	20	19
0	100	29	25	21	20
	105	29.5	25.5	21.5	20.5
	110	29.5	26	22	21
	115	30	27	24	21.5
	120	32	29	26	22
	125	32	30	27	22
	130	34	31	28	22
	135	35	33	29	22.5
	140	37	34	30	23
	145	39	35	31	23.5
	150	41	36	32	24
	155	42	38	34	26
	160	44	40	36	28
	165	46	41	37	30
	170	48	42	38	32
	175	48	43	39	32.5

36	180	48	44	40	33
37	185	50	45	40.5	33
1885					
38	190	52	46	41	34
39	195	53	47	42	35
40	200	55	48	43	36
41	210	55.5	49	44	37
42	220	56	50	45	38
43	230	57	51	45.5	39
44	240	58	52	46	40
45	250	58.5	53	47	41
46	260	59	54	48	42
47	270	60.5	55	49.5	43
48	280	62	56	51	44
49	290	62	56.5	51.5	45
50	300	62	57	52	46
51	310	63	57.5	53	47
52	320	64	58	54	48
53	330	65	59	55	49
54	340	66	61	56	50
55	350	69	62	57.5	51
56	360	72	63	59	52
57	370	72.5	63.5	59.5	53
58	380	73	64	60	54
59	390	73.5	65	61	55
60	400	74	66	62	56
61	410	77	68	63	57
62	420	80	70	64	58
63	430	82	72	65	59
64	440	84	74	66	60
65	450	86	76	67	61
66	460	88	78	68	62
67	470	90	80	69	63
68	480	92	82	70	64
69	490	94	84	71	95
70	500	96	86	72	66

Special Car-load Classes in Cents per Hundred Pounds.

	Miles.	5th class.	Class A.	Class B.	Class C.	Class D.	Clas
73	5	5	5	4	3	3	2
74	10	6	6	5	4	3	2
75	15	6	7		5	4	2
76	20	7	8	6	5	4	2.
77	25	7	8	6	5	4	2.
78	30	8	8	6	5	4	2.
79	35	9	9	7	6	5	3
80	40	10	10	7	6	5	3.

81	45..... 10	10	7	6	7	3.5
82	50..... 10	10	8	7	6	3.5
83	55..... 10	10	8	7	6	4
84	60..... 10	11	8	7	6	4
85	65..... 11	11	9	7	6	4
1886						
86	70..... 12	12	9	8	6	4
87	75..... 12	12	9	8	6	4
88	80..... 13	13	9	8	6	4.5
89	85..... 14	14	10	9	7	5
90	90..... 14	14	10	9	7	5.5
91	95..... 15	15	10	9	7	5.5
92	100..... 16	16	11	9	7	6
93	105..... 16.5	16.5	11	9.5	7	6
94	110..... 17	17	11	10	7	6
95	115..... 17.5	17.5	11.5	10.5	7.5	6
96	120..... 18	18	12	11	8	6
97	125..... 19	19	12.5	11	8	6
98	130..... 20	20	13	11	8	6
99	135..... 20	20	13	11.5	8	6
100	140..... 20	20	13	12	8	6
101	145..... 21	22	13.5	12.5	8.5	6.5
102	150..... 22	23	14	13	9	6.5
103	155..... 23	23	14.5	13.5	9.5	6.5
104	160..... 24	24	15	14	10	6.5
105	165..... 25	25	15	14	10	6.5
106	170..... 26	26	15	14	10	6.5
107	175..... 27	27	15.5	14.5	10.5	7
108	180. 28	28	16	15	11	7
109	185..... 29	28	17	15.5	11	7
110	190..... 30	28	18	16	11	7
111	195..... 30.5	28.5	19	16.5	11.5	7.5
112	200..... 31	29	20	17	12	8
113	210..... 31.5	29	20.5	17	12	8.5
114	220..... 32	29	21	17	12	9
115	230..... 33	29.5	21.5	17.5	12.5	9.5
116	240..... 34	30	22	18	13	10
117	250..... 35	30.5	22.5	18.5	13.5	10
118	260..... 36	31	23	19	14	10.5
119	270..... 37	31.5	24	19.5	14	10.5
120	280..... 38	32	25	20	14	11
121	290..... 38.5	32	25.5	20	14.5	11.5
122	300..... 39	32	26	20	15	12
123	310..... 39	32.5	26.5	20.5	15.5	12.5
124	320..... 39.5	33	27	21	16	13
125	330..... 39.5	33.5	27.5	21.5	16.5	13
126	340..... 40	34	28	22	17	13.5
127	350..... 40	35	29	23	17.5	13.5

128	360.....	40	36	30	24	18	14
129	370.....	40	37	31	25	18.5	14.5
130	380.....	40	38	32	26	19	15
131	390.....	41	39	33	26.5	19.5	15.5
132	400.....	42	40	34	27	20	16
133	410.....	43	41	34.5	27.5	20.5	16.5
1887							
134	420.....	44	42	35	28	21	17
135	430.....	45	43	35.5	28.5	21.5	17.5
136	440.....	46	44	36	29	22	18
137	450.....	47	45	36.5	29.5	22.5	18.5
138	460.....	48	46	37	30	23	19
139	470.....	49	47	37.5	30.5	23.5	19
140	480.....	50	48	38	31	24	19
141	490.....	51	49	38.5	31.5	24.5	19
142	500.....	52	50	39	32	25	19

Car-load Classes in Cents per Hundred Pounds.

	Miles.	Wheat, flour, millet, flaxseed.	Corn, oats, barley, and other grains and mill-stuffs.	Hard and soft lumber, laths, shingles, doors, sash, and blinds.	Salt, lime, cement, stucco.
149	5.....	4	4	4	2
150	10.....	4	4	4	2
151	15.....	4	4	4	2.5
152	20.....	5	4	4	3
153	25.....	5	4	4	3.5
154	30.....	5.5	5	4	4
155	35.....	6	5	4	4.5
156	40.....	6.5	5.5	4	5
157	45.....	6.5	5.5	4	5.5
158	50.....	7	5.5	4	6
159	55.....	7.5	6	4	6.3
160	60.....	7.5	6	4	6.6
161	65.....	8	6	4	6.9
162	70.....	8.5	6.5	4	7.2
163	75.....	9	7	5	7.5
164	80.....	9.5	7.5	5	7.8
165	85.....	10	8	6	8
166	90.....	10.5	8.5	6	8.3
167	95.....	10.5	9	6	8.6
168	100.....	10.5	9	6	9
169	105.....	10.5	9.5	6	9.3
170	110.....	11	10	6.5	9.6
171	115.....	11	10	6.5	9.9
172	120.....	11	10	7	10.2

3	125.....	11.5	10	7.5	10.5
4	130.....	12	10	8	10.8
5	135.....	12	10	8.5	11
6	140...	12	10	9	11.3
7	145.....	12.5	10.5	9	11.5
8	150.....	13	11	9	12
9	155.....	13	11	9.5	12.1
0	160.....	13	11	10	12.2
1	165.....	13.5	11.5	10.5	12.3
88					
2	170...	14	12	11	12.4
3	175...	14	12	11	12.5
4	180.....	14	12	11	12.6
5	185.....	14	12	11	12.7
6	190.....	14	12	11	12.8
7	195.....	14	12.5	11	12.9
8	200.....	14	13	11	13
9	210.....	14.5	13	11.5	13.5
0	220.....	14.5	13	12	14
1	230.....	14.5	13	13	14.5
2	240.....	14.5	13	14	15
3	250.....	14.5	13.5	14.5	15.5
4	260...	14.5	14	15	16
5	270.....	14.5	14	15.5	16.5
6	280.	15	14	16	17
7	290	15	14	16.5	17.5
8	300...	16	14	17	18
9	310.....	16	14	17.5	18.5
0	320.....	16	14	18	19
1	330.	16.5	14.5	18.5	19.5
2	340...	17	15	19	20
3	350.....	17	15	19.5	20.5
4	360.....	17	15	20	21
5	370.....	17.5	15.5	20.5	21.5
6	380.....	18	16	21	22
7	390.....	18	16	21.5	22.5
8	400.....	18	16	22	23
9	410.....	18.5	17	22.5	24
0	420.....	19	18	23	25
1	430.....	19.5	18	23.5	26
2	440.....	20	18.5	24	28
3	450.....	20.5	19	24.5	29
4	460.....	21	19.5	25	30
5	470.....	21	19.5	25.5	31
6	480.....	21.5	19.5	26	33
7	490.....	21.5	20	26.5	34
8	500.....	22	20	27	35

Strike out all of section 4.
In section 5, line 1, after the word "state" strike out the words "within two years next," and in line 2,
after the word "thereof" strike out "December 31, 1897" and insert in lieu thereof the following, "for
the period of five years after any part of such road shall have been put in operation."
In section 6, line 18, after the word "average" strike out all the remainder of the section.
In section 9, line 4, after the word "for" strike out the words "three times the amount of" and in lieu
thereof insert the word "all."
Because of the striking out of section 4, section 5 shall be known as section 4, section 6 as section 5,
section 7 as section 6, section 8 as section 7, and section 9 as section 8.
Insert into the bill as section 9 the following:
SECTION 9. Any railroad corporation violating any of the provisions of this act shall upon conviction

1889

thereof be fined in any sum not less than one thousand dollars ($1,000) nor more than five thousand
dollars ($5,000) for the first offense; and for the second offense not less than five thousand dollars
($5,000) nor more than ten thousand dollars ($10,000) and for the third offense, not less than ten thou-
sand dollars ($10,000) nor more than twenty thousand dollars ($20,000), and for every subsequent
offense and conviction thereof, shall be liable to a fine of twenty-five thousand — ($25,000).
Provided, That in all cases under this act either party shall have the right of trial by jury.

1890 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of amendment to house roll No. 33, a bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, with the printed copy now on file in this office, and that the same is a true and perfect copy of said amendments.

In testimony whereof I have hereunto set my hand and affixed
e great seal of the State of Nebraska. Done at Lincoln this 9th
day of November, in the year of our Lord one thousand
EAL.] eight hundred and ninety-three, of the Independence of
the United States the one hundred and eighteenth, and of
s State the 27.

(S'g'd) JOHN C. ALLEN,
Secretary of State.

91 Legislature of Nebraska.

Twenty-third session.

Amendments to House Roll No. 33.

Adopted by the house March 3, 1893.

mend line 229, section 9, by striking out the words "any rail-
d corporation violation any of the provisions of this act shall"
inserting the following:

"That in case any common carrier subject to the provisions of
this act shall do or cause to be done
or permit to be done any act, matter or thing in this act pro-
hibited or declared to be unlawful, or shall
mit to do any act, matter or thing, in this act required to be
done, such common carrier shall."

2 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

ATE OF NEBRASKA, }
e of *Secretary of State.* }

John C. Allen, secretary of state of the State of Nebraska, do
by certify that I have carefully compared the foregoing copy of
dments to house roll No. 33, a bill for An act to regulate rail-
s, to classify freights, to fix reasonable maximum rates to be
ged for the transportation of freights upon each of the railroads
e State of Nebraska, with the printed copy now on file in this
, and that the same is a true and perfect copy of said amend-
s.

testimony whereof I have hereunto set my hand and affixed
reat seal of the State of Nebraska. Done at Lincoln this 9th
day of November, in the year of our Lord one thousand
.] eight hundred and ninety-three, of the Independence of
the United States the one hundred and 18th, and of this
the 27th.

(S'g'd) JOHN C. ALLEN,
Secretary of State.

1893 Legislature of Nebraska.

Twenty-third session.

Amendment to House Roll No. 33.

Amendment to the amendment of house roll No. 33 as recommended by senate railroad committee.

In section three (3), from line one (1) to line six (6) inclusive, amend to read as follows:

Lines.	Miles.	1st class.	2d class.	3d class.	4th class.
1	5	13	11	9	7
2	10	15	12.5	10	7.4
3	15	16	14	10.5	8.5
4	20	16.5	14.5	11	9
5	25	17	15	11.7	9.5
6	30	18	15.5	12.2	10

1894 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of amendment to house roll No. 33, a bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, with the printed copy now on file in this office, and that the same is a true and perfect copy of said amendments.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln this 9th day of November, in the year of our Lord one thousand eight hundred and ninety-three, of the Independence of the United [SEAL.] States the one hundred and 18th, and of this State the 27th.

(Signed) JOHN C. ALLEN,
Secretary of State.

1895 Legislature of Nebraska.

Twenty-third session.

Senate Amendment to House Roll No. 33.

Amend line 429, page 20. Strike out 1½ and insert 2.

1896 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the state of Nebraska, do hereby certify that I have carefully compared the foregoing copy of senate amendment to house roll No. 33, a bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, with the printed copy now on file in this office, and that the same is a true and perfect copy of said amendment.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln this 9th day of November, in the year of our Lord one thousand eight hundred and ninety-three, of the Independence of the United [SEAL.] States the one hundred and 18th, and of this State the 27th.

JOHN C. ALLEN,
Secretary of State.

1897 Legislature of Nebraska.

Twenty-third session.

Senate Amendment to House Roll No. 33.

Substitute for section 4: All railroads or parts thereof which have—built in this State since the 1st day of January, 1889, or may be built before the 31st day of December, 1899, shall be exempt from the provisions of this act until the 31st day of December, 1899.

1898 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the state of Nebraska, do hereby certify that I have carefully compared the foregoing copy of senate amendment to house roll No. 33, a bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, with the printed copy now on file in this office, and that the same is a true and perfect copy of said amendment.

In testimony whereof I have hereunto set my hand and affixed

the great seal of the State of Nebraska. Done at Lincoln this 9th day of November, in the year of our Lord one thousand eight hundred and ninety-three, of the Independence of the United
[SEAL.] States the one hundred and 18th, and of this State the 27th.

JOHN C. ALLEN,
Secretary of State.

1899 Legislature of Nebraska.

Twenty-third session.

Senate Amendments to House Roll No. 33.

Adopted by the senate in committee of the whole.

That lines 149 to 165 inclusive of the amendment to house roll No. 33, recommended by the com-
2 mittee on railroads amending section three (3) from line nine (9) to line 227 inclusive as printed and
3 adopted, be amended to read as follows:

		Wheat flour.	Corn.	Lumber.	Salt.
149	5	4	4	4	3
150	10	4	4	4	3
151	15	4½	4½	4½	3
152	20	5	5	5	3½
153	25	5	5	5	3½
154	30	5½	5½	5½	4
155	35	6	6	6	4½
156	40	6½	6½	6½	5
157	45	7	7	7	5½
158	50	7	7	7	5½
159	55	7	7	7	5½
160	60	7½	7	7	5½
1900					
161	65	8	7	7	5½
162	70	8½	8½	7½	
163	75	9	8½	8½	6
164	80	9½	8½	8	6
165	85	10	8½	8	6½

1901 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of

senate amendments to house roll No. 33, a bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, with the printed copy now on file in this office, and that the same is a true and perfect copy of said amendments, and that no other amendments of said original printed bill other than those hereto attached and covered by my certificate are on file in my office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln this 9th day of November, in the year of our Lord one thousand eight hundred and ninety-three, of the Independence of the United [SEAL.] States the one hundred and 18th, and of this State the 27th.

JOHN C. ALLEN,
Secretary of State.

1902 EXHIBIT "2."

FRIDAY, *March 10th*, 1893.

Twenty-third session, 48th day.

Senate chamber, Lincoln, Neb.

Senate met, pursuant to adjournment, at 10 o'clock a. m.
Called to order by the president.
The following message was received from the house, through Eric Johnson, its chief clerk:

REPRESENTATIVE HALL, LINCOLN, *M'ch 9th*, 1893.

Mr. President, I am directed by the house to inform your honorable body that they have passed the following house roll:
House roll No. 33,
A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska,
"And to provide penalties for the violation of this act."
Your concurrence in the above is respectfully asked.

ERIC JOHNSON,
Chief Clerk.

1903 MONDAY, *March* 13, 1893.

Twenty-third session, 50th day.

Senate chamber, Lincoln, Neb.

Senate met, pursuant to adjournment, at 2 o'clock p. m.
Called to order by president *pro tem.*, E. M. Correll.
Mr. Babcock presented a petition from the Railway Employés Club of Omaha, Nebraska, protesting against the enactment of

house roll No. 33, An act to regulate freight rates in the St Nebraska.

The petition was referred to the committee on railroads.

House roll No. 33,

A bill for An act to regulate railroads, to classify rates, to fi sonable maximum rates to be charged for the transportati freights upon each of the railroads in the State of Nebraska,

Was read the first time.

1904 TUESDAY, *March* 14, 18

Twenty-third session, 51 day.

Senate chamber, Lincoln, Neb.

Senate met, pursuant to adjournment, at 10 o'clock a. m.

Called to order by the president *pro tem.*

Mr. McCarty presented petition from the railway employe Grand Island protesting against the enactment of house roll N

Petitions were read and referred to committee on railroads.

Mr. Stewart presented petitions upon the same subject; w were read and referred to committee on railroads.

Mr. Johnson presented petitions of the farmers and business of Clay county asking for the enactment of house roll No. 3 maximum freight law.

House roll No. 33,

A bill for An act to regulate railroads, to classify rates, to fix sonable maximum rates to be charged for the transportati freights upon each of the railroads in the State of Nebraska,

Was read the second time and referred to the committee on roads.

1905 THURSDAY, *March* 16, 18

Twenty-third session, 53d day.

Senate chamber, Lincoln, Neb.

Senate met, pursuant to adjournment, at 10 o'clock a. m.

Called to order by the president *pro tem.*

Mr. President, your committee on railroads, to whom wa ferred house roll No. 33, a bill for An act to regulate railroa classify freights, to fix reasonable maximum rates to be charge the transportation of freights upon each of the railroads in the of Neb., have had the same under consideration and instruct report the bill back to the senate with the recommendation th be made a special order for Tuesday, March 21st, as amende senate railroads committee.

J. P. MULLIN, *Chairm*

Objection being made, the consideration of the report was defe one day.

1906 FRIDAY, *March 17th*, 1893.

Twenty-third session, 54th day.

Senate chamber, Lincoln, Neb.

Senate met, pursuant to adjournment, at 10 o'clock a. m.
Called to order by the president *pro tem.*, Correll.
Report of committee on house roll No. 33,
A bill for An act to regulate railroads, classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska,
Was again read.
Mr. Lobeck moved,
That before the report is acted upon that senate file No. 213 be reported from the committee.
Mr. Mullen moved an amendment that the report of the committee be adopted.
Mr. Pope raised a point of order that Lobeck's motion was out of order, it not being germain to original motion;
Which point was not sustained by the chair.
Mr. Dysart moved
The previous question;
Which was withdrawn.
Mr. Eggleston moved,
That the report of the committee be not concurred in, and that the bill be placed on general file;
Which was not entertained by the chair.
Mr. Lobeck withdrew his motion.
The question then recurring on the report of the committee, and the yeas and nays being demanded, the roll was called.
1907 Those voting in the affirmative were
Messrs. Babcock, Campbell, Correll, Dale, Darner, Dysart, Everett, Gray, Hahn, Harris, Johnson, Lobeck, Lowly, McCarty, McDonald, Miller, Moore, Mullen, Packwood, Pope, Sanders, Scott, Smith, Stewart, Tefft, Thomsen, Young.
Those voting in the negative were
Messrs. Eggleston, Graham, Hale, Mattes, North.
Absent: Mr. Clarke.
A two-thirds majority having voted in the affirmative, the report of the committee was adopted and the bill made a special for Tuesday, March 21st, 1893.

1908 TUESDAY, *March 21st*, 1893.

Twenty-third session, fifty-third day.

Senate chamber, Lincoln, Nebraska.

Senate met, pursuant to adjournment, at 10.15 o'clock a. m.
Called to order by the president *pro tem.*
Mr. Darner presented a petition from the railway employés pro-

testing against the passage of senate file No. 95 and house roll 33; which was referred to the committee of the whole.

1909 Mr. Mullin called up for consideration the special order for the day,

House roll 33.

Mr. Eggleston moved

A call of the senate;

Which motion, being seconded by five members, was ordered by the president, who

Therefore directed the secretary to call the roll, and the following members were present:

Messrs. Babcock, Campbell, Clarke, Correll, Dale, Darner, Dysart, Eggleston, Everett, Graham, Gray, Hahn, Hale, Harris, Johnson, Lobeck, Lowly, Mattes, McCarty, McDonald, Miller, Moore, Mullin, North, Packwood, Pope, Sanders, Scott, Smith, Stewart, Tefft, Young—32.

Pairs: Thomsen with Everett on H. R. 33 and stock-yards legislation.

Mr. Eggleston moved,

That further proceedings under the call of the senate be dispensed with.

Mr. Mullin objected to the pair existing between Senators Thomsen and Everett upon the ground that a pair could not exist where there was an objection raised, as it is not recognized by any law.

The president held that under rule 52 that as Mr. Everett had made a statement of the pair to the senate that it would be recognized by the president as existing under the rules of the senate.

Mr. Young move-,

That the senate resolve itself into committee of the whole for the consideration of the special order of the day, house roll No. 33.

1910 Mr. Pope raised the point of order,

That at the forenoon session of the senate they had considered as a special order senate file No. 72, and that the committee had reported progress and asked leave to sit again, and for this reason it was entitled to precedence at this time.

Mr. Dale raised the point of order,

That the senate had a right to take up a special order at any time.

The president held,

That the special order of the day, house roll No. 33, could be considered at any time without displacing senate file No. 72.

Mr. Pope moved to amend,

That the senate resolve itself into committee of the whole to consider special order senate file No. 72. Mr. Stewart raised the point of order,

That house roll No. 33 was the special order of the day, and therefore entitled to precedence.

Mr. Dysart raised the point of order,

That house roll No. 33 was the special order and not senate file No. 72;

Which point of order the president held would have been sustained had it been raised at the time the senate resolved itself into committee of the whole for the purpose of considering senate file No 72.

Mr. Dale moved

To lay the motion of Mr. Pope on the table; which motion was subsequently withdrawn.

Mr. North move-

As an amendment to the amendment that the senate resolve itself into committee of the whole for the purpose of considering senate file No. 17 in connection with senate file No. 72; upon which amendment to the amendment the yeas and nays were

1911 Demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Correll, Eggleston, Hahn, Hale, Lobeck, Mattes, McDonald, Miller, North, Pope—11.

Those voting in the negative were Messrs.

Campbell, Clarke, Dale, Darner, Everett, Graham, Gray, Harris, Johnson, Lowly, McCarty, Moore, Mullin, Packwood, Sanders, Scott, Smith, Stewart, Tefft, Young.

Not voting: Dysart and Thomson.

Eleven members having voted in the affirmative and twenty in the negative, the motion did not prevail.

The question then recurred on the amendment offered by Mr. Pope.

On which motion the ayes and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Correll, Eggleston, Everett, Graham, Hahn, Hale, Lobeck, Lowly, Mattes, McDonald, Miller, Moore, North, Pope, Scott, Tefft—17.

Those voting in the negative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Gray, Harris, Johnson, McCarty, Mullin, Packwood, Sanders, Smith, Stewart, Young—15.

Not voting: Thomsen.

Seventeen members having voted in the affirmative and fifteen in the negative, the amendment was adopted.

The question then recurred on the motion as amend-,

And upon a division and

Seventeen voting in the affirmative and fifteen in the negative, the motion as amended prevailed.

1912 Mr. Everett announced that he was in receipt of a telegram from Senator Thomsen stating that he desired to be released from his pair on everything except stock-yards legislation.

Mr. North asked unanimous consent to make a report from the committee of judiciary. Objection being made, the report was not accepted.

Mr. North, by unanimous consent, presented a petition from rail-

way and express employés protesting against the passage of h
roll 33. The president referred the petition to the committee o
whole.

Mr. Dale moved:

I move that the senate resolve itself into a committee of the w
for the purpose of considering house roll No. 33, special order.

DAL

Mr. Moore moved

A call of the senate;

Which was duly seconded by Eggleston, Pope, Scott, North,
Tefft.

And was thereupon ordered by the president the secretary cal
roll, and there were present

Messrs. Babcock, Campbell, Clarke, Correll, Dale, Darner, Dy
Eggleston, Everett, Graham, Gray, Hahn, Hale, Harris, John
Lobeck, Lowly, Mattes, McCarty, McDonald, Miller, Moore, Mu
North, Packwood, Pope, Sanders, Scott, Smith, Stewart, T
Young—32.

Absent: Mr. Thomsen.

On motion, further proceedings under call of the senate were
pensed with, the question recurring on Mr. Dale's motion.

It was by unanimous consent agreed to.

1912½ After some time spent therein the committee arose, and
its chairman submitted the following report:

Mr. President, your committee of the whole would respectfu
report that they have had under consideration house roll No. 3
bill for An act to regulate railroads, to classify rates, to fix rea
able maximum rates to be charged for the transportation of freig
upon each of the railroads in the State of Nebraska.

Amend

Line 429, page 20.

Strike out 1½; should read second class.

LOBECK

On motion, the committee arose.

J. E. NORTH, *Chairman*

Mr. Dale moved a call of the senate;

Which was seconded by Messrs. Harris, Stewart, Mullin, Darn
& Young.

The president stated that he would recognize the motion at
proper time. Subsequently Mr. Teff moved that the report of
committee of the whole be adopted; upon which motion the y
and nays were demanded and the roll was called.

Those voting in the affirmative,

Messrs. Babcock, Correll, Eggleston, Graham, Hahn, Lobe
Lowly, McDonald, Miller, Moore, North, Pope, Scott, Tefft, Mattes
16.

Those voting in the negative were

1913 Messrs. Campbell, Dale, Darner, Dysart, Everett, Gray, Harris, Johnson, McCarty, Mullin, Packwood, Sanders, Smith, Stewart, Young—15.

Prior to the announcement of the vote by the president the motion of Senator Dale was entertained and a call of the senate was ordered.

The roll was called an- the following members were present:

Messrs. Babcock, Campbell, Correll, Dale, Darner, Dysart, Eggleston, Everett, Graham, Gray, Hahn, Hale, Harris, Johnson, Lobeck, Lowly, Mattes, McCarty, McDonald, Miller, Moore, Mullin, North, Packwood, Pope, Sanders, Scott, Smith, Stewart, Tefft, Young—31.

Absent: Messrs. Clarke and Thomsen.

The president directed the searg-ant-at-arms to immediately bring the absentees before the bar of the senate.

At 7.30 p. m.,

Mr. Dale moved that further proceedings under the call be dispensed with; which was agreed to. Before the announcement of the vote the following senators changed their vote from the affirmative to the negative:

Messrs. Hale, Mattes, and Tefft,

Making thirteen in the affirmative and 18 in the negative. The motion to adopt the report did not prevail; whereupon Mr. Dysart moved:

Moved the report of the committee of the whole on house roll No. 33 *to* read as follows: That the committee report progress and ask leave to sit again.

WM. DYSART.

Up- which motion,

1914 The yeas and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Campbell, Dale, Darner, Dysart, Everett, Graham, Gray, Hale, Harris, Johnson, Lobeck, Lowly, Mattes, McCarty, McDonald, Miller, Moore, Mullin, North, Packwood, Pope, Sanders, Scott, Smith, Stewart, Tefft, Young—28.

Those voting in the negative were

Messrs. Hahn and Eggleston.

Absent and not voting: Messrs. Correll, Clarke, and Thomsen.

A majority having voted in the affirmative, the motion was agreed to.

1915

THURSDAY, *March 23rd*, 1893.

Twenty-third session, 59 day.

Senate chamber, Lincoln, Nebraska.

Senate met, pursuant to adjournment, at 10.30 o'clock a. m.

Called to order by the president.

Mr. Johnson presented a petition from Clay county asking for the passage of house roll No. 33; which was referred to committee of the whole.

Mr. Stewart presented a petition from Crawford, Nebraska, protesting against the passage of house roll 33; which was referred to committee of the whole.

After recess.

Senate called to order by the president.

Mr. Mullin move- that the senate resolve itself into a committee of the whole to consider special order house roll 33.

1916 SATURDAY, *March 25th*, 1893.

Twenty-third session, 60 day.

Senate chamber, Lincoln, Nebraska.

Senate met, pursuant to adjournment, at 10.15 o'clock a. m.

Called to order by the president.

Mr. Dale moved that the senate resolve itself into committee of the whole to consider special order house roll 33; which was withdrawn.

Mr. Dale moved that the senate go into committee of the whole to consider special order house roll 33.

Mr. Moore moved a call of the house;

Which being duly seconded by five members, whereupon the president ordered the secretary to call the roll. The following members were present:

Messrs. Babcock, Campbell, Correll, Dale, Darner, Dysart, Eggleston, Graham, Gray, Hahn, Hale, Harris, Johnson, Lobeck, Lowly, Mattes, McCarty, McDonald, Miller, Moore, Mullin, North, Packwood, Pope, Sanders, Scott, Smith, Stewart, Tefft, Thomsen, Young, Mr. President—31.

Absent: Messrs. Clarke and Everett.

The president thereupon ordered the doors closed and directed the sea*r*g-ant-at-arms to bring the absentees before the bar of the senate.

Mr. Moore move- that further proceedings under the call be dispensed with.

It is not agreed to.

1917 The seage-nt-at-arms appeared before the bar of the senate with Messrs. Clarke and Everett, the absentees.

Upon motion, the absentees were excused.

Mr. Moore move- that further proceedings under the call be dispensed with; which was agreed to.

Whereupon the motion offered by Mr. Dale to go into committee of the whole was agreed to.

On motion of Mr. Dale, the senate resolved itself into committee of the whole for the purpose of considering special order house roll No. 33, a bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska.

After some time spent therein the committee arose and, by its hairman, submitted the following report:

Mr. President, your committee of the whole would respectully report that they have had under consideration a bill for An ct to regulate railroads, to classify rates, to fix reasonable maxiaum rates to be charged for the transportation of freights upon ach of the railroads in the State of Nebraska, and report progress nd ask leave to sit again.

J. E. NORTH, *Chairman.*

Mr. North moved that the report of the committee be adopted;

918 Which was agreed to.

Mr. Darner moved,

That the senate take a recess until two o'clock p. m.;

Which was agreed to.

After recess—2 p. m.

Senate met and was called to order by the president.

Mr. Campbell moved that the senate resolve itself into committee the whole to consider special order, being H. R. 33.

Mr. Lowly moved a call of the senate; which was duly seconded Messrs. Eggleston, Pope, Miller, Graham, and North,

And was thereupon ordered by the president. The roll was called, nd there were present

Messrs. Babcock, Campbell, Correll, Dale, Darner, Dysart, Eggleon, Everett, Graham, Gray, Hahn, Hale, Harris, Johnson, Lobeck, owly, Mattes, McCarty, McDonald, Miller, Moore, Mullin, North, ckwood, Pope, Sanders, Smith, Stewart, Tefft, Thomson, Young.

Absent: Messrs. Clarke and Scott.

The seargent-at-arms was instructed to bring in the absentees.

At 2.15,

The seargent-at-arms appeared before the bar of the senate with nator Scott, who, on motion, was excused.

Mr. Eggleston moved

To dispense with farther proceedings under the call of the senate.

Objection being made by five senators, the motion was not 19 entertained by the president.

At 2.20,

The seargent-at-arms appeared before the bar of the senate with nator Clarke, who, upon giving satisfactory explanation for his sence, was, upon motion, duly excused.

Mr. Darner moved,

That further proceedings under the call be dispensed with;

Which was agreed to.

The question recurring on the motion that the senate resolve itf into committee of the whole on H. R. 33, it was agreed to.

After some time spent therein the committee arose and, by its irman, submitted the following report:

Mr. President, your committee of the whole would respectfully report that they have had under consideration house roll No. 33, a bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and report progress and ask leave to sit again.

JOHN MATTES, JR., *Chairman.*

On motion, the report of the committee of the whole was adopted.

1920

MONDAY, *March 27th*, 1893.

Twenty-third session, 63 day.

Senate chamber, Lincoln, Nebraska.

Two o'clock p. m.

The senate was called to order by the president.

On motion of Mr. Mullin, the senate resolved itself into committee of the whole for the purpose of considering special order house roll No. 33, a bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska.

After some time spent therein the committee arose and, by its chairman, submitted the following report:

Mr. Chairman, your committee of the whole would respectfully report that they have had under consideration house roll 33, a bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and recommended that the amendments offered by senate railroad committee be adopted, and amend—

(Mullin:)

I move that lines 149 to 165, inclusive, of the amendment to house roll No. 33, recommended by the committee on railroads, amending section 3 from line 9 to line 227, inclusive, as printed and adopted, be amended to read as follows:

1921

149	5.....	4	4	4	3
150	10.....	4	4	4	3
151	15.....	4½	4½	4½	3
152	20.....	5	5	5	3½
153	25.....	5	5	5	3½
154	30.....	5½	5½	5½	4
155	35.....	6	6	6	4½
156	40.....	6½	6½	6½	5
157	45.....	7	7	7	5½
158	50.....	7	7	7	5½
159	55.....	7	7	7	5½
160	60.....	7½	7	7	5½

161	65	8	7	7	5½
162	70	8½	7½	7½	6
163	75	9	8½	8	6
164	80	9½	8½	8	6½
165	85	10	8½	8	6½

Substitute for sec. 4 amend as follows:

I move as a substitute for sec. 4:

All railroads or parts thereof which have been built in this State ince the 1st day of January, 1889, or may be built before the 31st ay of December, 1899, shall be exempt from the provisions of this ct until the 31st day of December, 1899.

J. P. MULLEN.

I move that when this committee arises that it report this bill ack with the recommendation hat it do pass as amended by the enate committee on railroads nd the senate committee of the hole.

MULLEN.

On motion, that the committee rise.

922

JOHN MATTES, J.

Mr. Darner moved,

That the report of the committee of the whole be adopted.

Mr. Pope moved to amend.

By POPE: I move to amend by striking out all after the enacting ause and insert- the following:

SECTION 1. The provisions of this act shall apply except as in is act otherwise provided to all railroad corporations and railroad mpanies and to any common carrier or carriers engaged in this ate in the transportation of freight by railroads therein and shall so be held to apply to shipments of property made from any point thin the State to any point within the State, the term "railroad" used in this act shall include all bridges and ferries, used or erated in connection with any railroad and also all the road in e by any corporation, receiver, trustee, or other person operating railroad, whether owned or operated under contract, agreement, se, or otherwise, and the term "transportation" shall include *lude* all instrumentalities of shipment or carriage and the term ilroad corporation" contained in this act shall be deemed and ken to mean all corporations, companies or individuals now -ing or operating or which may hereafter own or operate any lroad in whole or in part in this State and the provisions of this , except as in this act otherwise provided shall apply to all per- s, firms and companies, and to all associations of persons ether incorporated or otherwise that shall do business as common riers of freight upon any of the lines of railway in this State, the ne as to railroad corporations as herein mentioned.

SECTION 2. That if any common carrier subject to the provisions

of this act shall directly or indirectly by any special ra
1923 rebate, drawback or other device, charge, demand, collect
receive from any person or persons a greater compensati
for any service rendered or to be rendered in the transportation
property subject to the provisions of this act, than it charges, d
mands, collects or receives from any other person or persons, f
doing for him or them a like service in the transportation of a li
kind of traffic under substantially similar circumstances, and co
ditions, such common carriers shall be deemed guilty of unju
discrimination which is hereby prohibited and declared to be u
lawful.

SECTION 3. That it shall be unlawful for any common carri
subject to the provisions of this act to make or give any preferen
or advantage to any particular person, company, firm, corporatio
or locality, or any particular description of traffic in any respe
whatsoever, or to subject any particular person, company, firm, co
poration or locality or any particular description of traffic to an
prejudice or disadvantage in any respect whatsoever: every com
mon carrier subject to the provisions of this act shall furnish an
maintain suitable sufficient and equal facilities for the interchang
of traffic between their respective lines and for the receiving fo
warding and delivering of traffic to and from their several line
and those connecting therewith, and shall not discriminate in thei
rates and charges between such connecting lines, and this shall no
be construed as requiring any such common carrier to give the us
of its tracks or terminal facilities to another carrier engaged in lik
business.

SECTION 4. That it shall be unlawful for any common carrie
subject to the provisions of this act, to charge or receive any greate
compensation per mile, for the transportation of like kind of prop
erty, under substantially similar circumstances, and conditions, fo
a shorter than for a longer distance over the same line except as in
this act otherwise provided.

1924 SECTION 5. That it shall be unlawful for any common car
rier, subject to the provisions of this act, to enter into any
contract, agreement or combination with any other common car
rier or carriers for the pooling of freights of different and com
peting railroads, or divide between them the aggregate or net pro
ceeds of the earnings of such railroads or any portion thereof, and
in any case of an agreement of the pooling of freights as aforesaid
each day of its continuance shall be deemed a separate offense.

SECTION 6. That every common carrier, subject to the provisions
of this act, shall print and keep for public inspection schedule- show
ing the rates and fares and charges for the transportation of freight
as provided in this act, the schedules printed as aforesaid by any
such common carrier shall plainly state the places upon its rail
road between which property will be carried, and shall contain the
classification of freight in force upon such railroad, and shall also
state separately the terminal charges and any rules or regulations

which in anywise change, effect or determine any part of the aggregate of such aforesaid rates and charges, such schedules shall be printed in large type of at least the size of ordinary pica and copies for the use of the public shall be kept in every depot or station upon any such railroad at such places and in such form that they can be conveniently inspected; no advance shall be made in the rates and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this act, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time made in the schedule then in force, and the time when the increased rates or changes
1925 will go into effect, and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules then in force at the time and kept for public inspection, reductions in such public rates, fares, or charges may be made without previous public notice, but whenever any such reduction is made notice of the same shall be publicly posted and the changes made shall immediately be made public by printing new schedules, or shall immediately be plainly indicated upon the schedule at the time in force and kept for public inspection, and when any such common carrier shall have established and published its rates and charges in compliance with the provisions of this act, it shall be unlawful for such common carrier to charge, demand, collect or receive from any person or persons a greater compensation for the transportation of property or for any services in connection therewith, than is specified in such published schedule of rates and charges as may at the time be in force, provided that where joint schedules, or joint tariff rates and charges are maintained by connecting lines of railroad for the continuous shipment of freight over such connecting lines, such joint schedules or joint rates and charges shall be published in the same manner as hereinbefore provided in this section for the publication of its own schedules, rates and charges by any common carrier subject to the provisions of this act.

SECTION 7. That it shall be unlawful for any common carrier subject to the provisions of this act, to enter into any combination, contract or agreement, express or implied, to prevent by change of time schedule carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination and no break of bulk stoppage or interruption made by such common carrier shall
1926 prevent the carriage of freight from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose and without any intent to avoid — unnecessarily interrupt, such continuous carriage or to evade any provisions of this act.

SECTION 8. That nothing in this act shall apply to the carriage, storage or handling of property, free or at reduced rates for the United States or municipal government, or for charitable purposes or to and from fairs, and expositions, for exhibition thereat.

SECTION 9. That each of the railroads in the State of Nebraska shall charge for the transportation of freight from any point in said State, to any point in said State no higher or greater rate of charge than is by this act *by this act* fixed as the reasonable maximum rate for the distance hauled, and the reasonable maximum rates for the transportation of freights by railroad from any point in the State of Nebraska to any other point in said State, are declared and established to be as hereinafter in this section fixed for the distance named and any higher or greater rate for the distance hauled than that herein fixed and established, is prohibited and declared to be unlawful and the reasonable maximum rates herein fixed and established shall be known as the Nebraska schedule of reasonable maximum rates.

1927 *Nebraska Schedule of Reasonable Maximum Rates—Car-load Rates.*

Miles.	Per 100 pounds.		Per 30-ft car.			Per 100 pounds.		Per ton hard and soft coal.
	Wheat and flour.	Other grain.	Horses or mules.	Cattle or hogs.	Lumber.	Lime, cement.	Salt.	
5	5	5	$10.00	$9.00	5	4	3	.40
10	5	5	12.00	10.00	5	5	3	.40
15	5	5	14.00	12.00	5½	6	4	.50
20	6	5	16.00	14.00	5½	6⅔	5	.50
25	6	5	17.00	15.00	6	6	5	.60
30	6⅔	6	18.00	16.00	6	7	6⅓	.60
35	7	6	19.00	17.00	6½	7⅓	6⅔	.70
40	7⅓	6½	20.00	18.00	6½	7½	7	.70
45	8	6½	21.00	19.00	7	8	7⅓	.80
50	8½	6½	22.00	20.00	7½	8	8	.80
55	9	7	23.00	21.00	8	9	8⅓	.88
60	9½	7½	24.00	22.00	9	9	9	.88
65	10	8	25.00	23.00	9	10	10	.96
70	10½	8½	26.00	24.00	10	10	10	.96
75	11	9	27.00	25.00	10	11	10⅓	1.04
80	11⅓	9½	29.00	26.00	11	11	10⅔	1.04
85	11⅔	9½	30.00	27.00	11	12	11	1.12
90	11½	9½	32.00	28.00	12	12	11⅓	1.12
95	12	10	34.00	28.50	12	13	12	1.20
100	12	10	36.00	29.00	13	13	13	1.20
105	13	11	37.00	29.00	13	14	13⅓	1 26
110	13	11	37.50	29 00	13	14	13⅔	1.26
115	13	11	38.00	29.50	14	15	14	1.32
120	13½	11½	39.00	29.50	14	15	14⅔	1.32
125	14	12	39.50	30.00	14½	16	15	1.38
130	14	12	40 00	30.00	14½	16	15⅓	1.38
135	14½	12½	40.00	31.00	14½	16½	15⅔	1.44
140	14½	12½	41.50	31.50	15	17	16	1.44
145	15	13	41.50	31.50	15	18	16	1.50
150	15	13	42.00	32.00	15	18	16⅓	1.50
155	15	13	42.50	32.50	15½	19	16⅔	1.56
160	15½	13½	43.00	34.00	16	19	17	1.56
165	16	14	43.50	34.50	16	19	17⅓	1.62
170	16	14	44 00	35.00	16	19	17⅔	1.62
175	16⅓	14⅓	44.50	35.50	17	20	18	4.68
180	16½	14⅓	45.00	36 00	17	20	18⅓	1.68
185	17	15	45.50	36 50	17	20	18⅔	1.74
190	17	15	46.00	37.00	18	21	19⅓	1 74
195	17	15	46.50	37.50	18	21	19⅓	1 80
200	17	15	47.00	38.00	18	21	19⅔	1.80
210	17⅔	15½	47.50	39.00	18⅓	21⅓	20	1.85
220	17½	15⅓	48.00	40.00	18⅓	21½	21	1.90
230	17½	15½	48.50	40.50	18⅓	22	22⅓	1.95
240	17½	15⅓	49.00	41 00	19	22	23	2.00
250	18	16	49.50	42.00	19	22⅓	24	2.05
260	18	16	50.00	43.00	19	22⅓	24	2.10
270	18	16	50.50	43.50	19	23	25	2.15
280	18	16	51.50	45.00	19½	23	25	2 20
290	18½	16⅓	52.50	46.00	19½	23½	26	2 25
300	19	17	53 50	47.00	19½	24	27	2 30
310	19	17	54.50	48.00	20	25	28	2.34
320	20	18	57.00	48 00	20	25	28	2.38
330	20	18	58 00	48.50	21	26	29	2 42
340	20	18	59 00	49.50	21	26	29	2.46
350	21	19	61.50	51.50	21	27	29	2 50
360	21	19	62.50	52.50	21⅓	29	30	2.54
370	22	20	63.00	53.00	22½	31	30	2 58
380	22	20	64.00	54.00	23	32	31	2.62
390	22	20	65 00	55.00	25	34	32	2.66
400	22	20	65.50	55.50	27	36	33	2.70
410	23	21	67.00	57.00	29	38	34	2.74
420	24	22	68.00	58.00	31	40	35	2.78
430	24⅓	22½	69 00	59.00	32	41	36	2.82
440	25	23	70.00	60.00	34	43	38	2.86
450	25	23	71.00	61.00	36	45	40	2.90
460	25	23	72.00	62.00	38	47	42	2.94
470	25	23	73.00	63.00	39	49	44	2.98
480	25	23	74.00	64.00	41	51	45	3.02
490	25	23	75.00	65.00	43	53	46	3.06
500	25	23	76.00	66.00	45	54	48	3.10

1928 The maximum rate on sheep shall be sixty (60) per ce
of the cattle rate for single-deck cars, and same rate as cat
rate for double-deck cars.

No railroad in this State shall charge, demand or receive for t
transportation of freight of any class or character not herein s
cifically mentioned a higher or greater sum than was charged
such railroad for transporting freight of a like character on the
day of January, 1893, provided, that all freight transported by a
common carrier subject to the provisions of this act shall be bill
at its actual weight and the charges by such common carrier shall
based upon the actual weight of the freight, and any other meth
of estimating charges is hereby declared to be unlawful.

SECTION 10. Whenever any railroad company or companies in t
State shall in a proper action show by competent testimony that t
schedule of rates prescribed by this act are unjust and unreasonab
such railroad or railroads shall be exempt therefrom as hereinaft
provided. All such actions shall be brought before the supre
court in the name of the railroad company or companies bringi
the same and against the State of Nebraska, and upon the hearin
thereof, if the court shall become satisfied that the rates here
1929 prescribed are unjust in so far as they relate to the railroa
bringing the action may issue their order permitting suc
railroad to raise its rates provided, that in no case shall the rat
so raised be fixed at a higher sum than that charged by such ra
road on the first day of January, 1893. Whenever any railroa
company in this State shall claim the benefit of the provisions
this section it shall be the duty of such railroad company to sho
to the court all mathers pertaining to the management thereof, an
if it shall appear that said railroad company is operating branc
lines of railroad in connection with its main line and all include
in one system, then and in that case it shall be the duty of the ra
road company to show to the court upon which branch or branche
or upon which portion of such system the schedule of rates pre
scribed in this act is unjust and unreasonable and only such portion
shall be exempted from the provisions thereof.

SECTION 11. That in case any common carrier subject to the pro
visions of this act shall do or cause to be done, or permit to be don
any act, matter or thing in this act prohibited or declared to be un
lawful, or shall omit to do any act, matter or thing in this act re
quired to be done, such common carrier shall be fined in any sum
not less than five hundred dollars nor more than five thousand
dollars for each offense, and in addition to such fine shall be liabl
to the person or persons injured thereby, for the amount of dam
ages sustained in consequence of any such violation of the pro
visions of this act, together with costs of suit and a reasonable coun
sel or attorney's fee to be fixed by the court in which the same is
heard on appeal or otherwise which shall be taxed and collected as
part of the costs in the case, provided that in all cases demand in
writing on said common carrier shall be made for the money

damages sustained, before suit is brought for recovery under
1930 this section, and that no suit shall be brought until the expiration of fifteen days after such demand.

Upon which motion, the ayes and nays were demanded.

The roll was called.

Those voting in the affirmative were

Messrs. Babcock, Correll, Eggleston, Graham, Hahn, Lobeck, Lowly, Mattes, McDonald, Miller, Moore, North, Pope, Scott, Tefft—15.

Those voting in the negative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—18.

A majority having voted in the negative, the motion was not agreed to.

The question then recurred on the motion of Mr. Darner to adopt the report of the committee of the whole.

The yeas and nays being demanded, the roll was called.

Those voting in the affirmative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—18.

Those voting in the negative were

Messrs. Babcock, Correll, Eggleston, Graham, Hahn, Lobeck, Lowly, Mattes, McDonald, Miller, Moore, North, Pope, Scott, Tefft—15.

A majority having voted in the affirmative, the report of the committee of the whole was adopted and house roll 33 ordered to a third reading.

1931 TUESDAY, *Mar.* 28, 1893.

Twenty-third session, 62d day.

Senate chamber, Lincoln, Nebraska.

Senate met, pursuant to adjournment, at 10.20 o'clock a. m.

Called to order by the president.

Mr. McCarty, from the committee on enrolled and engrossed bills, submitted the following report:

Mr. President, your committee on engrossed and enrolled bills would respectfully report that we have carefully examined and compared house roll No. 33, a bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act, and find the same correctly engrossed, showing amendments made by railroad com. and senate com. of the whole as considered and approved by the committee of the whole.

P. F. McCARTY, *Chairman.*

1932 WEDNESDAY, *March* 29, 1893.

Twenty-third session, 63 day.

Senate chamber, Lincoln, Nebraska.

10.20 a. m.

Senate called to order by the president.

Mr. Mullen presented petitions relative to house roll 33, asking for the passage of the bill; which were referred to committee on railroads.

Mr. Stewart moved to amend

To include H. R. 33.

A division of the question being demanded, the question at first recurred on taking up H. R. 268 for final passage.

Upon which motion the yeas and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Clarke, Correll, Eggleston, Everett, Graham, Lobeck, Lowly, Mattes, McDonald, Miller, Moore, North, Pope, Scott, Tefft—16.

Those voting in the negative were

Messrs. Campbell, Dale, Darner, Dysart, Gray, Hale, Harris, Johnson, McCarty, Mollen, Packwood, Sanders, Smith, Stewart, Thomsen, Young, Mr. President—16.

Absent and not voting: Mr. Hahn.

Not the necessary two-thirds having voted in the affirmative, the motion was not agreed to. The question then recurred on putting H. R. 33 on its final passage, and upon a division 16 voted
1933 in the affirmative and 15 in the negative, not the necessary two-thirds; the motion did not prevail.

Mr. Stewart moved:

I move that house roll No. 268 and house roll No. 33 be placed upon their passage. A division of the question was demanded, and

The — at first recurred on the advancement on the calendar of H. R. 268, and upon a division 16 voted in the affirmative and 16 in the negative, not the necessary two-thirds.

The motion did not prevail.

Recurring on the advancement of H. R. 33, and 16 having voted in the affirmative and 15 in the negative, not the necessary two-thirds,

The motion did not prevail.

1934 THURSDAY, *March 30th*, 1893.

Twenty-third session, 64th day.

Senate chamber, Lincoln, Neb.

10 o'clock a. m.

Senate called to order by the president.

Mr. Mattes moved,

That house roll 268 be placed on third reading.

Mr. Dale offered the following substitute:

I move that house roll No. 268 and house roll No. 33 be now placed on third reading; which was not agreed to.

The yeas and nays being demanded on motion of Mr. Mattes' motion, and the roll being called, those voting in the affirmative were

Messrs. Babcock, Clarke, Correll, Eggleston, Everett, Graham, Hahn, Lobeck, Lowly, Mattes, McDonald, Miller, Moore, North, Pope, Scott, Tefft—17.

Those voting in the negative were

Messrs. Campbell, Dale, Darner, Dysart, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—16.

Two-thirds not having voted in the affirmative, the motion was not agreed to.

1935 MONDAY, *April 3rd*, 1893.

Twenty-third session, 66 day.

Senate chamber, Lincoln, Neb.

After recess—2.30 p. m.

Sen-te met and was called to order by president *pro tem.*, E. M. Correll.

Mr. Mattes moved:

I move that the reading of house roll 33 be dispensed with and the bill put on its final passage.

MATTES.

Mr. Stewart raised the point of order,

That the motion was out of order for the reason that a constitutional provision required every bill to be read at large on its third reading;

Which point of order was sustained by the president.

Mr. North moved that the senate do now adjourn.

Upon which motion the yeas and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Correll, Graham, Hahn, Mattes, North, Scott—8.

Those voting in the negative were

Messrs. Campbell, Dale, Darner, Gray, Harris, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Young—13.

Absent and not voting:

Messrs. Dysart, Eggleston, Johnson, Lobeck, Lowly, Moore, Pope, Tefft, and Thomsen.

During the roll-call Mr. Dale moved a call of the house; 1936 which was seconded by five members, and was ordered by the president.

The roll was called, and there were present
Messrs. Babcock, Campbell, Clarke, Correll, Dale, Darner, Dy
Eggleston, Everett, Graham, Gray, Hahn, Hale, Harris, John
Lobeck, Lowly, Mattes, McCarty, Miller, Moore, Mu*u*len, No
Packwood, Pope, Sanders, Scott, Smith, Stewart, Thomsen, You
Absent: Messrs. McDonald and Tefft.

At 11.40, Mr. Stewart — that farther proceedings under the
be dispensed with; which was objected to by Messrs. Hahn, Sc
Babcock, Mattes, and Graham, and the motion was not entertai
by the president.

At 11.30, Mr. Campbell moved that farther proceedings under
call be dispensed with; which was objected to by Messrs. Grah
Hahn, Scott, Babcock, and Miller, and was not entertained by
president.

At 12.35 a. m., Mr. Stewart moved that further proceedings un
the call be dispensed with; to which objection was made by Mes
Mattes, Scott, Hahn, Graham, and North,

And was not entertained by the president.

At 12.45, Mr. Clarke moved

To dispense with farther proceedings under the call; *to* which
objected to by Messrs. Graham, Mattes, Scott, Hahn, and Babco
and was not entertained by the president.

At 12.50, Mr. Dale moved,

That further proceedings under the call be dispensed wi
1937 to which Messrs. Mattes, Graham, Hahn, Miller, and B
cock objected, and it was not entertained by the president

At 12.55, Mr. Stewart moved that further proceedings under t
call be dispensed with;

Which was objected to by Messrs. Babcock, Mattes, Graha
Miller, and Hahn, and was not entertained by the president.

At 1 a. m., Mr. Clarke moved

To dispense*d* with further proceedings under the call.

Objection being made by Messrs. Babcock, Graham, Hahn, Sco
and Miller, it was not entertained by the president.

At 1.15,

Mr. Stewart moved

To dispense with further proceedings under the call; which w
objected to by Messrs. Babcock, Graham, Scott, Moore, and Hah
and was not entertained.

At 1.25,

Mr. McCarty moved

To dispense with further proceedings under the call; to whic
objection was made by Messrs. Graham, Babcock, Hahn, Moor
Mattes, and *Mattes*, and the motion was not entertained by th
president.

At 1.40, Mr. Stewart moved,

That further proceedings under the call be dispensed with; whic
was objected to by Messrs. Graham, Babcock, Moore, Hahn, an
Miller, and was not entertained by the president.

At 3.45 a. m., April 4, 1893,

Mr. Harris—that farther proceedings under the call be dispensed with. Objection was made by Messrs Babcock, Mattes, Hahn,
1938 Miller, and Scott, and the motion was not entertained.

At 5.40 a. m.,

Mr. North moved

To dispense with further proceedings under the call.

Agreed to.

Mr. Babcock moved

A call of the senate; which was duly seconded by five members, and was ordered by the president.

The roll was called and the following members were present:

Messrs. Babcock, Campbell, Correll, Dale, Darner, Everett, Graham, Gray, Hahn, Harris, Johnson, Mattes, Miller, Mullen, North, Packwood, Sanders, Scott, Smith, Stewart, Young, Mr. President.

Absent: Messrs. Clarke, Dysart, Eggleston, Hale, Lobeck, Lowley, McCarty, McDonald, Pope, Tefft, Thomsen.

At 6.00 a. m.,

Mr. Darner moved

To dispense with further proceedings under the call.

Messrs. Graham, Hahn, North, Scott, and Miller objecting, the motion was not entertained.

At 6.40 a. m.,

The first assistant sergeant-at-arms appeared before the bar of the senate and reported that he had notified all absentees except Messrs. Tefft, McDonald, Pope, and Clarke, whom he did not find, and that those notified would appear before the bar of the senate immediately.

At 7.40 a. m., Mr. Dale moved,

That further proceedings under the call be dispensed with. Messrs. Correll, Lowley, Hahn, Scott, and Miller objecting,
1939 the *the* motion was not entertained.

Mr. Dale moved,

That warrants be issued for the absentees and placed in the first assistant sergeant-at-arms for service.

At 8.10 a. m., Mr. Dale moved

That further proceedings under the call be dispensed with; five members objecting, the motion was not entertained.

At 9.45 a. m., Mr. Dale moved,

That further proceedings under the call be dispensed with; five members objecting, the motion was not entertained.

At 9.50 a. m., Mr. Clarke moved,

That further proceedings under the call be dispensed with; five members objecting, the motion was not entertained.

Mr. Clarke raised the point of order that objecting members were not in their seats; which point of order was not sustained by the president.

At 9.51 a. m.,

Mr. Harris moved,

That further proceedings be dispensed with.

Messrs. Hahn, Eggleston, Babcock, Moore, Mattes, and Lowley objecting, the motion was not entertained by the president.

At 9.55 a. m., Mr. Stewart moved,

That further proceedings under the call be dispensed with; five members objecting, the motion was not entertained by the president.

Mr. Dale asked that rule 41 be enforced, and the president requested all to observe the rule.

At 10.00 a. m.,

1940 Mr. Harris moved,

That further proceedings under the call be dispensed with; five members objecting, the motion was not entertained by the president.

Mr. Stewart asked for information regarding the absentees and desired to know what progress the sergeant-at-arms had made in his search for them. The president was unable to give the desired information.

At 10.15 a. m., Mr. Clarke moved,

That further proceedings under the call be dispensed with; five members objecting, the motion was not entertained by the president.

At 10.16 a. m., the sergeant-at-arms appeared before the bar of the senate with Mr. Tefft, who stated he had been detained by reason of sickness, and who was, by unanimous consent, excused for his absence and was further excused for the day.

At 10.30, the president directed the assistant sergeant-at-arms to repair to the depot for the purpose of meeting Senator McDonald.

At 10.45 a. m., Mr. Stewart moved that the order be revoked permitting members to pass in and out.

Thereupon the chair directed that no person could enter or leave the senate chamber without the permission of the senate, and directed the doorkeeper to recognize no permit that had been previously issued.

Mr. Tefft asked unanimous consent to be excused at 2.40; no one objecting, the senator was accordingly excused.

At 11.00 o'clock, Mr. Dale moved,

That further proceedings under the call be dispensed with.

Messrs. Hahn, Mattes, North, Graham, and Miller objecting, the motion was not entertained.

1941 At 11.45 a. m., Mr. Stewart moved to dispense with further proceedings under the call. Messrs. Eggleston, Graham, Hahn, Mattes, and Miller objecting, the motion was not entertained.

At 2.15, Mr. Clarke moved to dispense with further proceedings under the call. Messrs. Babcock, Graham, Mattes, Hahn, and North objecting, the motion was not entertained.

At 12.25 p. m., the sergeant-at-arms appeared before the bar of the senate with Senator McDonald, who stated that he came as soon as the circumstances would permit; thereupon Mr. Lobeck moved that the senator be excused; which was agreed to.

At 12.30 p. m., Mr. Stewart moved that further proceedings under the call of the senate be dispensed with; which was agreed to.

The roll was called and all were present except Senator Tefft, who was excused.

Mr. Mattes now moved that the senate take a recess until 2 p. m.; upon which motion the yeas and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Clarke, Correll, Darner, Dysart, Eggleston, Everett, Graham, Hahn, Hale, Harris, Johnson, Lobeck, Lowley, Mattes, McCarty, McDonald, Miller, Moore, North, Pope, Sanders, Scott, Smith, Thomsen, Young, Mr. President—26.

Those voting in the negative were

Messrs. Mullen, Campbell, Dale, Gray, Packwood, Stewart—6.

A majority having voted in the affirmative, the motion to take a recess was agreed to. During the call of the roll and before the result was announced by the president the following business intervened: Senator asked to be excused from voting on the motion to take a recess. Mr. Pope objected and called for the yeas 942 and nays.

Whereupon Mr. Harris raised the point of order that the roll-call had not been completed and for that reason could not be interrupted by another roll-call; which point of order the president did not sustain.

Whereupon Mr. Harris appealed from the decision of the chair. Mr. Moore raised a point of order that a point of order could not be debated; which point of order the president sustained.

Mr. Clarke moved that the senate take a recess until 1.45 p. m.; which motion the president held was not in order for the reason that a similar order was then before the senate. The appeal of Mr. Harris, on the motion to excuse Senator Lowley, *were* withdrawn and the question recurred on the original motion to take a recess until two o'clock; which was agreed to.

943

APRIL 4 AND 5, 1893.

Twenty-third session, 66 day.

Senate chamber, Lincoln.

After recess—2.30 o'clock.

Senate met and was called to order by the president. H. R. 33 was read a third time. During the reading Mr. North moved that the bill be recommitted to the house committee on engrossed and enrolled bills; which motion was ruled out of order by the president.

Mr. North moved,

That the bill be recommitted to the committee of the whole.

Mr. Dale moved

The previous question.

The question being,

Shall the main question be now put?

It was so ordered.

The question recurring on the motion to recommit the bill,

The yeas and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Correll, Eagleston, Hahn, Lobeck, Lowley, Mattes, McDonald, Miller, Moore, North, Pope—11.

Those voting in the negative were

Messrs. Campbell, Clarke. Dale, Dysart, Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—17.

1944 Absent and not voting: Messrs. Babcock, Graham, Scott, Tefft, Darner—5.

A majority having voted in the negative, the motion was not agreed to.

The reading of the bill was continued, and during the reading Mr. North moved that the bill be recommitted to the committee of the whole.

Mr. Harris raised the point of order that a motion to recommit having been made and voted down, the motion was therefor- out of order at this time; which point of order was not sustained by the president.

Mr. Stewart raised the point of order that the motion was out of order, since no other business had intervened, since the same motion had been made and defeated, and also because no special reason had been given for recommitting the bill; which point of order the president did not sustain.

Mr. Dysart moved

The previous question.

The question being,

Shall the main question be ordered?

It was agreed to.

The question recurring on the motion to recommit the bill, the yeas and nays were demanded and the roll was called. Those voting in the affirmative were

Messrs. Babcock, Correll, Graham, Lobeck, Lonley, Mattes, Moore, North, Pope, Scott—10.

Those voting in the negative were

Messrs. Campbell, Clarke, Correll, Dale, Dysart, Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—17.

1945 Absent and not voting:

Messrs. Darner, Hahn, Eggleston, McDonald, Miller, and Tefft—6.

A majority having voted in the negative, the motion did not prevail.

Mr. Graham moved,

That the senate take a recess to 10 o'clock Wednesday, April 5th, 1893.

Upon which motion the ayes and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Correll, Eggleston, Graham, Lobeck, Lowley, Mattes, McDonald, Miller, Moore, North, Pope, Scott—13.

Those voting in the negative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—18.

Absent and not voting:

Messrs. Hahn and Tefft—2.

A majority having voted in the negative, the motion was not agreed to.

During the roll-call Mr. Pope moved a call of the senate, which was duly seconded by Messrs. North, Graham, Moore, Babcock, and Scott, and was thereupon ordered by the president. The roll was called, and there were present

1946 Messrs. Babcock, Campbell, Clarke, Correll, Dale, Darner, Dysart, Everett, Graham, Gray, Hale, Harris, Johnson, Lobeck, Lowley, Mattes, McCarty, McDonald, Moore, Mullen, North, Packwood, Pope, Sanders, Scott, Smith, Stewart, Tefft, Thomsen, Young.

Absentees:

Messrs. Eggleston, Hahn, and Miller.

Subsequently Messrs. Eggleston and Miller returned.

At 7.10 p. m.,

Mr. Harris moved,

That further proceedings under the call be dispensed with;

To which objection was made by Messrs. Graham, Mattes, Scott, McDonald, and Lobeck, and the motion was therefor- not entertained by the president.

Mr. Graham moved,

That farther proceedings under the call of the senate be dispensed with; which was agreed to.

Mr. Harris moved:

I move that senators recorded absent on a call of the house be assessed ten dollars unless they are excused by a vote of senate, the amount of the assessment to — given the Home of the Friendless.

Mr. Eggleston raised the point of order that this motion was out of order during the reading of a bill on third reading; which point of order was sustained by the president. The reading of the bill was continued, and Mr. North moved that the bill be recommitted to the committee of the whole. Mr. Harris raised the point of order that the motion was not in order for the reason that the motion had been twice made and demanded;

1947 Which point of order was not sustained by the president.

Mr. Stewart moved the previous question.

Mr. North raised the point of order that the motion was not in

order for the reason that he had not yielded the floor; which point of order was not sustained by the president.

Mr. Harris raised the point of order that under this motion the merits of the bill could not be discussed; which point of order was sustained by the president. Mr. Stewart moved the previous question;

Which was not recognized by the president.

Mr. Dale raised the point of order that Mr. North should have resumed his seat after moving the recommittal of the bill, and then the motion for the previous question would have been in order;

Which point of order was not sustained by the president.

Mr. Stewart raised the point of order,

That under rule 11 a previous question could be made at this time; which point of order was not sustained by the president, who decided that the gentleman from Platte had the floor.

Mr. Dale raised the point of order,

No member could speak more than once to the same question on the same day, and that as the senator from Platte had made the same motion twice and spoken to it twice he was therefor- out of order;

Which point of order the president did not sustain.

Mr. Stewart raised the point of order that the president had agreed to recognize him to move the previous question;

Which point of order was not sustained by the president.

1948 Mr. Mattes moved

The previous question.

The question being,

Shall the main question be now ordered?

It was agreed to.

The question recurring on the motion to recommit the bill, the yeas and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Correll, Eggleston, Graham, Lobeck, Lowley, Mattes, McDonald, Miller, Moore, North, Pope, Scott—12.

Those voting in the negative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders,

1949 Smith, Stewart, Thomsen, Young—18.

Absent and not voting:

Messrs. Babcock, Hahn, and Tefft—3.

A majority having voted in the negative, the motion was not agreed to.

During the calling of the roll Mr. North moved a call of the senate, which was seconded by Messrs. Moore, Graham, Pope, Mattes, and Eggleston, and it was thereupon ordered by the president. The roll was called and there were present

Messrs. Babcock, Campbell, Clarke, Correll, Dale, Darner, Dysart Eggleston, Everett, Graham, Gray, Hale, Harris, Johnson, Lobeck,

Lowley, Mattes, McCarty, McDonald, Miller, Moore, Mullen, North, Packwood, Pope, Sanders, Scott, Smith, Stewart, Thomsen, Young.

Absentees: Mr. Tefft excused and Mr. Hahn.

Mr. Smith moved,

That the absentees be excused;

Which motion was ruled out of order by the president.

At 12 m.,

Mr. Clarke moved,

That further proceedings under the call be dispensed with, Messrs. North, Mattes, Graham, Moore, and Lowly objecting, and the motion was not entertained by the president.

At 12.10,

Mr. Mullen moved that further proceedings under the call be dispensed with. Five senators objecting, the motion was not entertained.

1950 At 12.15, Mr. Dale moved,

That farther proceedings under the call be dispensed with. Five senators objecting, the motion was not entertained.

At 12.20, Mr. Clarke moved,

That further proceeding- under the call be dispensed with;

Which was agreed to.

Mr. Stewart moved that the absentees be excused.

Upon which motion the ayes and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Campbell, Clarke, Dale, Dysart, Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—17.

Those voting in the negative were

Messrs. Babcock, Correll, Eggleston, Graham, Lobeck, Lowley, Mattes, McDonald, Miller, Moore, North, Pope, Scott—13.

1951 Messrs. Pope, Mattes, Miller, Scott, and Lowly objecting, the motion was not entertained.

At 12.40,

Mr. Smith moved,

That further proceedings under the call be dispensed with.

Five senators objecting, the motion was not entertained.

At 12.45,

Mr. Johnson moved

To dispense with further proceedings under the call of the senate.

Five senators objecting, the motion was not entertained.

At 12.50,

Mr. Mullin moved,

That further proceedings under the call of the senate be dispensed with.

Five senators objecting, the motion was not entertained.

At 1 a. m.,

Mr. Clarke moved

To dispense with further proceedings under the call.
Five members objecting, the motion was not entertained.
At 1.10,
1952 Mr. Johnson moved,
That further proceedings under the call of the senate be dispensed with.
Five senators objecting, the motion was not entertained.
At 2 a. m.,
Mr. Gray moved,
That further proceedings under the call be dispensed with.
Five senators objecting, the motion was not entertained.
At 8 a. m.,
Mr. Dale moved,
That further proceedings under the call be dispensed with.
Five senators objecting, the motion was not entertained.
At 9 a. m.,
Mr. Stewart moved,
That further proceedings under the call be dispensed with.
Five senators objected and the motion was not entertained.
At 9.40,
Mr. Dale moved,
To dispense with further proceedings under the call.
Five senators objected and the motion was not entertained.
At 9.45,
Mr. Gray moved,
That further proceedings under the call be dispensed with.
Five senators objecting, the motion was not entertained.
At 10.30 a. m., Mr. Stewart moved,
That further proceedings under the call be dispensed with.
Five senators objecting, the motion was not entertained.
At 11.15, Mr. Dale moved,
That further proceedings under the call be dispensed with.
1953 Five senators objecting, the motion was not entertained.
At 11.30, Mr. Dysart moved,
That further proceedings under the call be dispensed with.
Five senators objecting, the motion was not entertained.
At 12 noon, Mr. Smith moved
To dispense with further proceedings under the call.
Five senators objecting, the motion was not entertained.
At 1.45, Mr. Stewart moved,
That further proceedings under the call be dispensed with.
Five senators objected and the motion was not entertained.
At 2 p. m.,
Mr. Stewart moved
To dispense with further proceedings under the call.
Five senators objecting, the motion was not entertained.
Mr. Stewart arose to a question of privilege and asked that the following protest be made a part of the record.

(Out.)

At 2.30 o'clock, the sergeant-at-arms appeared before the bar of the senate with Senator Hahn, who upon giving satisfactory explanation for his absence was excused by the senate.

Mr. Pope moved,

That further proceedings under the call be dispensed with;

Which was agreed to.

Mr. Hahn asked to be excused, and, no objection being made, the request was granted.

1954 The reading of the bill was continued, and at its conclusion

Mr. Mattes moved,

That the bill be recommitted to the committee of the whole.

After some time spent in the discussion of the motion,

The question then recurred on the motion to recommitment of house roll No. 33.

Upon which motion

The yeas and nays were demanded, and

The roll was called.

Those voting in the affirmative were

Messrs. Babcock, Correll, Eggleston, Graham, Hahn, Lobeck, Lowley, Mattes, McDonald, Miller, Moore, North, Pope, Scott—14.

Those voting in the negative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Everett, Graham, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young—18

A majority having voted in the negative, the motion did not prevail.

Mr. Clarge explained his vote as follows:

Wher-as sec. 7 and sec. 13 will regulate my mistakes made in the printing of this bill, I vote no.

C. H. CLARKE.

The question then recurred on the passage of house roll 33;

Was read the third time and put upon its passage; whereupon the president stated: "This bill having been read at large upon three different days and the same, with all its amendments, having been printed, the question is, shall the bill pass?" The roll was called by the secretary, and those voting in the affirmative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Eggleston,
1955 Everett, Gray, Hale, Harris, Johnson, McCarty, Mullen, Packwood, Sanders, Smith, Stewart, Thomsen, Young. Total, 18, 19.

Those voting in the negative were

Messrs. *Messrs.* Babcock, Correll, Eggleston, Graham, Hahn, Lobeck, Lowley, Mattes, McDonald, Miller, Moore, North, Pope, Scott—14.

Absent and not voting: *Messrs.* Mr. Tefft.

A constitutional majority having voted in the affirmative, t
bill was passed and the title was agreed to.

In voting upon the final passage of house roll 33,

The following explanations were ordered made a part of t
record:

Explanation of Vote.

Mr. POPE: I vote against this bill because I believe it does not s
forth the subjects of the bill clearly in its title as required by t
constitution; that it is class legislation, & that the bill is unconstit
tional in other respects & will be inoperative; also if the bill shou
become a law & should be declared constitutional if taken to t
courts it will work a great hardship upon the producing classes.
raises the rate on all products shipped out of the State and on a
shipments coming into the State on the through rate; it is again
the interests of the home manufacturer who consumes raw materi
& is in favor of foreign manufacturers. For the above reasons
vote no.

POPE.

Mr. MCDONALD: A representative of the Republican party, favo
ing a legitimate control of railroad transportation, represen
1956 ing a constituency interested in the development of ever
section of the State of Nebraska, a constituency where intell
gence dominates over bias and prejudice, and believing that hous
roll No. 33 was born in ignorance, promoted by malice, and foster
by prejudice and if passed would inflict great injury upon th
people of the eighth (8th) senatorial district, by which I have bee
honored and in which my family expect to have the benefit of en
lightened government and freedom of thought; believing furthe
that the passage — the iniquitous measure known as the maximum
rate bill will be a detriment not only to the section in which I hav
a home, but also to every honest and intelligent community in th
State, I therefore vote no.

B. F. MCDONALD,
Senator, 8th Senatorial District.

E. M. CORRELL Mr. President, in explanation of my vote o
house roll No. 33, "A bill for An act to regulate railroads, to classif
freights, to fix reasonable maximum rates to be charged for th
transportation of freights upon each of the railroads in the State o
Nebraska," I respectfully submit the following, with the request tha
it be spread upon the senate journal:

I find, upon such consideration as I have been able to give this
bill, that it contains many objectionable features. It is inequitable
in its provisions and oppressive in its reductions. It appears to be
drawn more from a spirit of hostility than wise regulation. It is
manifestly unfair in adopting as a measure of comparison and a
basis of rates the lowest Iowa schedule without provideing for a cor-
responding classification of Nebraska railroads according to their

gross earnings per mile. This bill will have a tendency to reduce both the number of employés and their wages, and its passage
1957 will be in opposition to the expressed and earnest remonstrances of twenty thousand railroad employés in this State. It will lessen the present conveniences for passenger travel and shipment of freight. It will lessen, if not entirely stop, railroad-building in this State.

I further believe that if this bill becomes a law it will permit the railroads to charge both local and through rates, and that in the construction which the railroads will probably give the interstate-commerce law in connection with this law freight rates will be advanced instead of reduced. It is also claimed by the executive committee of the Nebraska Millers' Association that this bill increases the freight rate on wheat for milling purposes on an average of four cents per hundred pounds, and if this bill becomes a law "it would," in the language of the committee, "be a serious blow to the millers of the State, and, in so far as the wheat tariff is concerned, a detriment to the farmers." It is also claimed by shippers of lumber and corn that under the provisions of this bill the freight rates upon those articles will be increased instead of reduced. The many errors that occur in this bill and the refusal of its friends to allow it to be recommitted for correction are strong arguments in favor of its defeat.

Further, this bill is a second edition, somewhat modified, of the iniquitous measure known as the "Newberry bill" in the legislature of 1891, and as such comes to us burdened with a record of arrogance and tyranny upon the part of its supporters in that body rarely, if ever, equalled in legislative proceedings. The bill is also a special partisan measure of the Populist party, and as such is not entitled to the affectionate consideration of those who are not members of that party. Further, the action of the supporters of this bill in this legislature in killing other and better railroad bills, which received my earnest support, has not been of such a
1958 nature as to commend support for this bill.

While I favor just and reasonable regulation of railroads by legislation, I believe this bill is unjust and unreasonable; that by reason of being to- radical it will seriously retard works of internal improvement and hinder the advancement of our magnificent State, now eagerly awaiting the building of more railroads to develope her marvelous resources.

For the reasons above mentioned I vote no.

I vote no for the reason that the bill is class legislation & unconstitutional. It raises the rates on the producing & manufacturing class, and is detrimental to the interests of the State.

J. P. MILLER.

Messrs. BABCOCK and MATTES, LOBECK, SCOTT:

We, the undersigned members of the senate of the State of Ne-

braska, hereby enter our solemn protest against the passage of house roll No. 33, and assign the following reasons:

That said bill has not been read at large on three different days in the house of representatives;

Nor has said bill been read at large on three different days in the senate;

Nor has said bill been read at large at all in the senate, as required by article 3, section 11, of the constitution of the State of Nebraska.

Said bill not being passed in accordance with the requirements of the constitution of this State, it is therefore unconstitutional and void.

1959

Bill "2."

Line 69 in the printed amendment passed by the house of representatives to this bill reads in the fourth-class column "95," whilst the engrossed bill reads "63."

Line 2464 in the printed bill reads "4, 5;" in the engrossed bill it reads "2, 5."

The president in making the declaration and declaring the result said:

While the chair is somewhat embarrassed by the explanation of senators as to the fact that H. R. No. 33 was not read at large on three different days, yet the chair, in justification of his submission of the issued formula, which comprehends only the constitutional requirements of all bills legally enacted, it is not for the chair to challenge the reading of any bill, he not being a member of the body, but must accept the reading as by the secretary if the same is unchallenged.

T. J. MAJORS.

1960

THURSDAY, *April* 6, 1893.

Twenty-third session, 67 day.

Senate chamber, Lincoln, Nebraska.

Senate called to order by the president.

REPRESENTATIVE HALL, LINCOLN, *April* 6, 1893.

Mr. President, I am directed by the house to inform your honorable body that they have concurred — the following senate amendments to H. R. No. 33:

Amend line 429, page 20; strike out 1½ and insert 2:

All railroads or parts thereof which have been built in this State since the first day of January, 1889, or may be built before the 31st day of December, 1899, shall be exempt from the provisions of this act until the 31st day of December, 1899.

In section three (3), from line one (1) to line six (6), inclusive, amend to read as follows:

Lines.	Miles.	1st class.	2nd class.	3rd class.	4th class.
1	5	13	11	9	7
2	10	15	12.5	10	7.4
3	15	16	14	10.5	8.5
4	20	16.5	14.5	11	9
5	25	17	15	11.7	9.5
6	30	18	15.5	12.2	10

That lines — 165, inclusive, of the amendment to H. R. No. 33 recommended by the committee on railroads, amending section three (3) from line nine (9) to line 227, inclusive, as printed and adopted, be amended to read as follows:

149	5	4	4	4	3
150	10	4	4	4	3
1961					
151	15	4½	4½	4	3½
152	20	5	5	5	3½
153	25	5	5	5	3½
154	30½	5½	5½	5½	4
155	35	6	6	6	4½
156	40	6½	6½	6½	5
157	45	7	7	7	5½
158	50	7	7	7	5½
159	55	7	7	7	5½
160	60	7½	7	7	5½
161	65	8	7	7	5½
162	70	8½	7½	7½	6
163	75	9	8½	8	6
164	80	9½	8½	8	6½
165	85	10	8½	8	6

ERIC JOHNSON,
Chief Clerk.

At the hour of 4.45 p. m., while the senate was in session and capable of transacting business, the president gave notice that he was about to sign and did sign

House roll No. 33,

A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska.

During the reading of the journal

Mr. Clarke moved:

I move that that part of the explanation of the senators wherein they state that house roll 33 was not read at large 3 times be struck from the record of the journal.

C. H. CLARKE.

1962 The question being,

Shall the decision of the chair stand as the decisi
the senate?

The yeas and nays were demanded and the roll was called.

Those voting in the affirmative were

Messrs. Babcock, Eggleston, Everett, Graham, Hahn,
Lobeck, Lowley, Mattes, McCarty, McDonald, Miller, Moore, N
Pope, Scott, Tefft, Thomsen—18.

Those voting in the negative were

Messrs. Campbell, Clarke, Dale, Darner, Dysart, Gray, Ha
Johnson, Mullen, Packwood, Sanders, Smith, Stewart, Young-

Not voting: Mr. Correll.

A majority having voted in the affirmative, the decision of
chair was sustained.

Mr. Stewart asked that his written remarks upon a questio
privilege during the session of the previous day while the se
was under a call of the house be made a part of the record.

Mr. Stewart raised the point of order that as it was a matte
personal privilege, he had a right to have it made a part of
record, and that the president had no right to put the questio
a vote of the senate.

The president decided the point of order was not well ta
and held that, as the chair was charged with ignoring the rule
the senate, the question of allowing the remarks to be made a
of the journal must be submitted to the senate.

The question being,

Shall the personal explanation of Senator Stewart be made a p
of the records?

The yeas and nays were demanded, and

1963 The roll was called.

Those voting in the affirmative were

Messrs. Campbell, Dale, Darner, Dysart, Gray, Harris, Mull
Packwood, Sanders, Young—10.

Those voting in the negative were

Messrs. Babcock, Clarke, Correll, Eggleston, Everett, Graha
Hahn, Hale, Johnson, Lobeck, Lowley, Mattes, McDonald, Mill
Moore, North, Pope, Scott, Tefft, Thomsen—20.

Not voting:

Messrs. McCarty, Smith, and Stewart.

A majority having voted in the negative, the motion was n
agreed to.

Mr. North offered the following explanation of his vote:

Explanations approved were made when the senate could transa
business. The present one was made when the senate could n
transact business. I therefore vote no.

NORTH.

Mr. Babcock — that the further reading of the journal be di
pensed with;

Which was agreed to.

1964 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of state.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of the proceedings of the twenty-third session of the Nebraska State senate relative to the introduction and passage by that body of house roll No. 33, "A bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska," and that the same is a true and correct copy of all the proceedings had by that body in reference to the introduction and passage of the said bill as shown by the original senate journal on file in this office of said twenty-third session, held at the State capital, in the city of Lincoln, A. D. 1893.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln this 11th day of November, in the year of our Lord one thousand [SEAL.] eight hundred and ninety-three, of the Independence of the United States the one hundred and 18, and of this State the 27.

JOHN C. ALLEN,
Secretary of State.

1965 1 The following message was received
2 from the house through Eric Johnson
3 its chief clerk:

REPRESENTATIVE HALL, LINCOLN, *M'ch 19th*, 1893.

Mr. President, I am directed by the house to inform your honorable body that they have passed

The following house roll:

House roll No. 33,

A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska,

"And to provide penalties for the violation of this act."

Your concurrence in the above is respectfully asked.

ERIC JOHNSON,
Chief Clerk.

Exhibit 3.

1966

12

13 Amend section 1 by inserting the fol

" Line 10–112 for contingent fund $2.00
(not concurred in)

The figures or letters in the first column to the right of the various articles in the classification refer to less than car-load lots and those in the second column refer to the rate in car-load lots.

ligence of its employés.

The Nebraska Classification.

Explanation of characters.—The class is given opposite each article 1, 2, 3, 4 and 5 stand for first, second, third, fourth and fifth classes respectively 1½ for once and a half first class. D 1 for double first class. 2½ for two and one-half times first class. 3 t 1 for three time- first class. 4 t 1 for four times first class. O. R. for owner's risk. C. R. for carrier's risk. S. U. for set up. K. D. for knocked down. C. L. for car-load. P. P. for prepaid. L. C. L. for less than car-load. N. O. S. for not otherwise specified in this classification. Classes A, B, C, D, and E, refer to table rates.

x A.

	L. C. L.	C. L.
Advertising boards, in bdls...		3
Advertising matter and almanacs, bxd. or in bdls. O. R. prepaid	1	3

Advertising matter (not to exceed 500 pounds) O. R. released, may be shipped with car-loads of articles advertised at the car-load rate of article shipped.

Agricultural implements, also parts of agricultural implements, returned to manufacturers for repairs, will be charged half tariff rates when returned by same railroad or railroads as originally forwarded; when returned by other railroad or railroads than originally forwarded by, full tariff rates will be charged.

Agricultural implements (not including hand implements) at O. R. of breaking and chafing.

1967 At a session of the circuit court of the United States for the district of Nebraska, continued and held, pursuant to adournment, at the United States court room, in the city of Omaha, on the fifth day of April, 1894, the Honorable Henry C. Caldwell, U. S. circuit judge, and the Honorable John A. Riner, U. S. district udge for the district of Wyoming, being present and presiding in said court, the following, among other, proceedings were had and done, to wit:

OLIVER AMES, SECOND, *et al.*, Complainants,
vs.
THE UNION PACIFIC RAILWAY COMPANY *et al.*, Defendants.
} 94 "Q." Order.

In the matter of the petition of the receivers in relation to the wage schedules.

This matter coming on to be heard, the receivers appearing by John M. Thurston, their solicitor, and the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Firemen, the Order of Railway Conductors, the Union Pacific Employees' Association, and the Brotherhood of Railway Trainmen, representing the men employed in the service of the Union Pacific system, appearing by the officers of said several organizations and by George . Hodges, T. F. Gantt, and T. W. Harper, their solicitors, and the ourt being sufficiently advised in the premises,

It is ordered, with the following amendment as to delayed or ver time, viz:

In lieu of article IV (engineers' old rules):

Delayed Time.

No overtime shall be allowed unless the time on duty has averged less than ten miles per hour, time to be computed from the me first named to leave.

1968 In lieu of article VII (engineers' old rules):

Extra Short Runs not Provided for in the Schedule of Runs.

All short runs of less than one hundred miles, and no other ileage made on the same day, one hundred miles will be allowed, vertime after ten hours.

Add to sec. 1 of article LX as follows:

It is expressly understood that grievance committees authorized represent engineers shall have access to the proper officials for e consideration of cases of violation of rules or regulations govning conditions of employment.

Firemen.

In view of the present stringency in all matters pertaining to labor and corporations, we, the firemen, are willing to share with this court the burden of expense to the extent of conceding overtime accrued in less than ten hours on all trains.

That the schedules of pay and the rules and regulations for the guidance and government of employees engaged in the operation of the various railway, railroad, and telegraph lines and other properties of the Union Pacific system, now operated by S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane, and Frederick R. Coudert, receivers herein, which were in force upon said Union Pacific system at the date when the property of said Union Pacific system passed into the custody and control of said receivers under and by virtue of the orders of this court, shall be continued in full force and effect by the said receivers, their managers, superintendents, and officers, until changed by agreement between the receivers and the officers or representatives of the labor organizations representing the employees engaged in the service of operating said Union Pacific properties under said receivers, or by the order of this court. This order shall apply to all the road,
1969 including the St. Joseph & Grand Island railroad, and to every department of service under the receivers in relation to the operation and business of said Union Pacific properties.

It is further ordered that the receivers shall have five hundred copies of a complete record of the proceedings had in the courts of the several districts of this circuit in relation to the change of rules, regulations, and wage schedules proposed by the receivers herein, printed and securely bound, each volume to contain the complete record, properly indexed, of all proceedings had in the several courts relating to this subject, beginning with the petition of the receivers and including the petition, the answers of the employees, the testimony taken at the hearing before the court in the circuit court for the district of Nebraska, and all opinions of the courts filed and all orders made by the circuit courts in the several districts. The cost and expense of preparing manuscript, printing and distributing said record, as by this order directed, shall be paid by said receivers out of the trust funds in their hands.

It is further ordered that the copies of said record, when printed and bound in volumes, shall be distributed by the receivers as follows:

Twenty-five volumes each to the circuit judges of this circuit.

Ten volumes each to the district judges of this circuit.

One hundred volumes to the receivers.

Forty volumes to the representatives of the employees.

One hundred volumes to remain in the custody of the clerk of this court, for distribution as the court may from time to time direct.

It is further ordered that the delegates or representatives of the employees engaged in the service of operating the railroad
1970 and telegraph lines of the Union Pacific system under the receivers, who were in attendance upon the conference ordered by the circuit judges and in attendance at this hearing, shall be allowed their reasonable expenses during the time they were attending the conference and hearing, upon the basis heretofore allowed by the company to men attending a conference between the officers of the company and the men, and the receivers are directed to pay these expenses out of the trust funds in their hands.

It is further ordered that the order and injunction relating to the wage schedules heretofore entered in this court for the district of Nebraska on the 27th day of January, 1894, be, and the same is hereby, set aside.

(Signed) HENRY C. CALDWELL,
U. S. Circuit Judge, Eighth Judicial Circuit.
JOHN A. RINER,
U. S. District Judge for the District of Wyoming, Sitting in the Circuit Court for the District of Nebraska, by the Designation and Appointment of the Circuit Judge.

THE UNITED STATES OF AMERICA, *District of Nebraska,* } ss:

I, E. D. Frank, clerk of the circuit court of the United States for the district of Nebraska, do hereby certify that the above and foregoing is a true copy of an order entered upon the journal of the proceedings of said court in the cause therein entitled; that I have compared the same with the original entry of said order and it is a true transcript therefrom and of the whole thereof.

Seal United States Circuit Court, District of Nebraska.

Witness my official signature and the seal of said court, at Omaha, in said district, this 24th day of April, A. D. 1895.

ELMER D. FRANK, *Clerk.*

[Endorsed:] No. 94 "Q," doc. —. United States circuit court, district of Nebraska. Oliver Ames, Second, *et al. vs.* The Union Pacific Railway Company *et al.* Copy of order of court, Exhibit "15."

1971

DEFENDANTS' EXHIBITS.

DEF'TS' EX. "1." "Dey line."

OMAHA, NEB., 12, 21, 1893.

Proportionate cost for building 1 mile of the 1st 100 miles of the Union Pacific railroad, based upon the engineer's estimate of 1864 and the Hoxie contract, as follows, viz:

Quantities.	Description.	Price.	Amount.	Total am't.
	Grading and bridging	$11,425 35	11,425 35	
90	Gr. tons rails	130	11,700	
2.64	Tons spikes	240	633 60	
1.76	" chairs	240	422 40	
2,100	Cross-ties	60c.	1,260	
	Track-laying		500	
	Transportation on iron		3,776	
	Engineering and contingencies		914	
	100 miles	$3,063,135 00		
	6 miles side track	115,239		
	38 frogs & switches	3,800		
				3,182,174 00
	Shop buildings at Omaha:			
	Machine shop		$36,000	
	Carried forward		36,000	
1972	Brought forward		36,000 00	3,182,174 00
	Car shop		30,000 00	
	Blacksmith shop		7,000 00	
	Engine-house		15,000 00	
	Tank		5,000 00	
	Passenger-house and office		20,000 00	
			$113 000 00	
	Freight-house and office		10,000 00	
	Transfer and turn-table		8,000 00	
	Machine-shop machinery		12,000 00	
	Car " "		2,000 00	
	Blacksmith-shop machinery		1,000 00	
	Station-houses and tanks		82,000 00	
	Transportation		7,000 00	
				235,000 00
	Equipment:			
8	Locomotives	$23,000	$184,000 00	
6	Passenger cars	4,500	27,000 00	
3	" " 2nd class	3,000	9,000 00	
	Carried forward		$220,000 00	$3,417,174 00
1973				
	Brought forward		220,000 00	3,417,174 00
3	Baggage, mail, and express cars	$2,500	7,500 00	
50	Box cars	1,500	75,000 00	
25	Stock "	1,500	37,500 00	
50	Platform cars	1,200	60,000 00	
17	Hand "		2,550 00	
	Transportation		81,150 00	
				483,700 00
				3,900,874 00

Summary.

Grading and bridging	$1,142,535 00
Superstructure	2,039,639 00
Station-houses	235,000 00
Equipment	483,700 00
	3,900,874 00
Add for extra work:	
Ordered by special commission	$168,874 45
" work on abandoned line	141,113
Mud Creek line	3,575,614 00

[Endorsed:] #2. Approximate estimate of the *of the* cost of building the 1st 100 miles of the Union Pacific railroad, Dey line.

1974 "DEF'TS' EX. 2."

OMAHA, 12, 22, 1893.

Missouri Pacific Railway of Kans. and Nebr.

Actual cost of building 1 mile of single-track railroad from the Union Pacific R'y junction in Nebr. to the Central Branch R'y junction in Kans. in 1881-'2—distance main line, 147.53 miles; side track, 9.5 miles—*of* follows, viz:

Quantities.	Description.	Amount.	Total am't.
1 mile	Right of way	950 00	
"	Grading	3,760 00	
"	Bridging	1,600 00	
"	Cross-ties	1,560 00	
"	Steel rails	6,150 00	
"	Spikes	137 00	
"	Splices and bolts	291 00	
"	Frogs and switches, "complete"	88 00	
"	Track-laying and surfacing	700 00	
"	Section and tool houses, tools, hand cars, etc	80 00	
"	Station-houses and stock yards	400 00	
"	Stations, fuel and water	270 00	
"	Road crossings and cattle-guards	65 00	
"	Telegraph	100 00	
	Carried forward	16,151 00	
975			
	Brought forward	16,151 00	
mile	Engineering	305 00	
"	Transportation, distributing material	120 00	
			$16,576 00
	There was added as follows:		
"	Ballast 3,083 00	21 00	
"	June rolls, "extra surfacing" 15,000 00	102 00	
"	Foreman and watch-houses 15,165 00	104 00	
"	Fencing 1,231	8 00	
"	Maint. of way and incidentals, etc.	43 60	
			278 60
	Total cost of 1 mile		16,854 60

Summary.

otal cost of 147.53 miles of main line and 9.5 siding	$2,486,559 82

1976 "DEF'T-' EX. 3."

OMAHA, 12, 30, 1893.

Approximate estimate of the cost of constructing 1 mile of single-track railroad in the State of Nebraska, based on the present price of labor and for materials at quotations and contract prices, F. O. B. at Missouri River points, as follows, viz:

Quantities.	Description.	Prices.	Amount.	Total am't.
12.12	Acres r't of way and land damages	$50	606 00	
8/16	Terminals	1,200	960 00	
16,000	Cubic yards earth excavation	14c.	2,240 00	
4	Cubic yards rock-faced bridge masonry	12	48 00	
3	Linear feet triangular truss bridging	45	135	
600	" " white-oak piling	45c.	270 00	
18,000	Feet, B. M., timber, trustle bridges	30	540 00	
1,000	Lbs. wrought iron	4c.	40 00	
500	" cast "	2½c.	12 50	
2,500	Ft., B. M., timber, road crossings & cattle-guards	30	75 00	
2,640	Standard white-oak ties	58c.	1,531 20	
94.3	Tons gro. steel rails, "60 lbs."	31	2,923 30	
7.04	" angle bars, "24 lbs."	34	239 36	
0.57	" bolts, "hex. nuts"	54	30 78	
3.00	" spikes, "5½ x 9/16"	42	126	
	Carried forward		$9,777 14	
1977				
	Brought forward		9,777 14	
1,410	Nut locks	$8 M.	11 28	
	Frog and split switch, "complete"	60	30 00	
	Track-laying and surfacing	600	600 00	
	Section and tool houses, tools, hand car, etc.	750	125 00	
	Station-houses, "pass. & fr't," "stock yards"	2,625	375 00	
	Coal-houses, wells, tanks, windmills, etc.	2,500	250 00	
	Distributing material, transportation, etc.		100 00	
	Engineering		563 42	
				11,831 84
	Equipments:			
	Locomotion, "30 tons"	$8,500	850 00	
	Passenger cars, "standard, 1st class"	4,300	537 50	
	" " " 2nd "	3,500	437 50	
	Baggage and express cars, "standard, 2nd class"	2,800	186 67	
	Mail cars, "standard, 2nd class"	2,800	186 68	
	Box " " "25 tons"	390	1,170 00	
	Stock " "	330	495 00	
	Platform and coal cars, "standard," "25 tons"	270	810	
	Caboose	825	41 25	
				4,714 60
	Carried forward			16,546 44

"*Def't-' Ex.* 3"—Continued.

Quantities.	Description.	Price.	Amount.	Total am't.
1978	Brought forward....	.....	.....	$16,546 44
	Buildings, machinery, etc., as follows, viz:			
	Round-houses, machine shop, car shop, blacksmith shop, paint shop, boiler shop, foundry, office, and storehouse, etc., all furnished with power, machinery, tools, etc., for the ordinary repair of locomotives and cars.	75,000	750 00	
	Superintendence and incidentals, 5 %	.....	863 56	
				1,613 56
	Total cost of 1 mile.....	.....	.....	18,160 00
Total cost of 100 miles.....				$1,861,00

1979 DEF'TS' EXHIBIT "5."

Assessment Return of the Burlington and Missouri River Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.

Rolling stock and personal property.

	Value of each.	Total value.
60 engines.....		
24 passenger coaches, first class.....		
1 dining-car coaches, second class.....		
4 mail cars.....		
2 express cars.....		
4 baggage cars.....		
Mail, express, and baggage cars combined...		
1 express and baggage cars combined.....		
27 caboose cars.....		
835 box cars.....		
340 stock cars.....		
511 flat cars.....		
Hand cars.....		
Rubble cars.....		
1 wrecking cars.....		
Velocipedes.....		
1 pay cars.....		
1 officers' cars.....		
Boarding cars.....		
16 refrigerator cars.....		
1 derricks.....		
1 pile-drivers.....		
Snow-plows.....		

	Value of each.	Total valu
1 ice-flanger		
1 steam shovel		
1 " troll-y		
1 ditcher		

1980

Recapitulation.

B. & M. R. R. R. in Neb.

Total No.			
191.51	miles road-bed, right of way, and main track, @		
83.80	" side track		
20.84	" telegraph line, 2 wire		
105.93	" " " 4 wires		
14.07	" " " 5 wires		
9.07	" " " 6 wires		
41.60	" " " 7		
247.88	acres depot grounds		
127.56	" shop grounds at Plattsmouth & Havelock		
28	depots (1 freight)		
21	section-houses		
47	tool-houses		
5	engine-houses & 4 turn-tables		
	Round-houses		
6	coal-houses		
1	coal shed and 2 platforms		
	Water tanks		
16	water stations		
	Offices, dwellings, etc		
	Furniture and fixtures		
	Fuel, ties, etc. { Track, bridge, shop tools & mach'y		1,057 00
	Fuel, ties, etc. { Track & miscl. mat'l, oil, tallow, & waste		30,710 13
	Rolling stock		
27	stock yards		
3	" " scales		
3	track scales		
40	miscellaneous buildings		
	" material, Plattsmouth shops		37,852 22
	" " Havelock "		8,159 31
	Total		

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Burlington and Missouri River Railroad in Nebraska, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc.,

and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 13th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1981 *Assessment Return of the Omaha and South Western Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
16 engines		
4 passenger coaches, first class		
Passenger coaches, second class		
1 mail cars		
Express cars		
1 baggage cars		
2 mail, pass'r, and baggage cars combined		
1 pass'r and baggage cars combined		
3 caboose cars		
106 box cars		
43 stock cars		
64 flat & coal cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
2 refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

1982 *Recapitulation.*

Omaha and South Western.

Total No.		
50.84	miles road-bed, right of way, and main track, @	
26.30	" side track	
3.91	" telegraph line, 1 wire	
17.07	" " " 2 wires	
13.02	" " " 3 wires	
16.84	" " " 5 wires	

	Total No.	
56.02 acres depot grounds		
7 depots		
4 section-houses		
11 tool-houses		
2 engine-houses, 1 turn-table		
Round-houses		
3 coal-houses		
Coal sheds		
Water tanks		
3 water stations		
Offices, dwellings, etc		
Furniture and fixtures		
Fuel, ties, etc. — Track, bridge, shop tools, & mach'y.		269 00
Fuel, ties, etc. — Track & miscl. mat'l, oil, tallow, & waste		771 68
Rolling stock		
6 stock yards		
16 miscellaneous buildings		
Total		

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Omaha and South Western railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 12th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1983 *Assessment Return of the Nebraska Railway Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 189–.*

Rolling stock and personal property.

	Value of each.	Total value.
8 engines		
7 passenger coaches, first class		
Passenger coaches, second class		
1 mail cars		
Express cars		
1 baggage cars		
2 mail, pass'r, and baggage cars combined		

	Value of each.	Total value.
1 pass'r and baggage cars combined		
5 caboose cars		
176 box cars		
71 stock cars		
106 flat & coal cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
4 refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

1984

Recapitulation.

Nebraska railway.

Total No.			
136.59	miles road-bed, right of way, and main track, @		
24.30	" side track		
	" telegraph line, 1 wire		
87.12	" " " 2 wires		
49.47	" " " 3 wires		
	" " " 4 wires		
110.75	acres depot grounds		
20	depots (1 a freight depot)		
7	section-houses		
20	tool-houses		
2	engine-houses and 1 turn-table		
	Round-houses		
1	coal-houses & platform		
4	coal bins		
	Water tanks		
7	water stations		
	Offices, dwellings, etc.		
	Furniture and fixtures		
	Fuel, ties, etc. { Track, bridge, shop tools, & mach'y		269 00
	Fuel, ties, etc. { Track & miscl. mat'l, oil, tallow, & waste		6,215 36
	Rolling stock		
21	stock yards		
1	" " scales		
3	miscellaneous buildings		
	Total		

I, J. G. Taylor, auditor, do solemnly swear that I have lis
within for assessment and taxation all the property belonging
the Nebraska railway, as required by law, to the best of my kno
edge, and that the above-listed machine and repair shops, gene
office buildings, storehouses, etc., and all real and personal prope
are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor*

Subscribed in my presence and sworn to before me this 12th d
of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public

1985 *Assessment Return of the Republican Valley Railroad Compa*
to the Auditor of Public Accounts of the State of Nebras
April 1st, 1893.

Rolling stock and personal property.

	Value of each.	Total val
67 engines		
38 passenger coaches, first class		
1 dining car		
4 mail cars		
2 express cars		
6 baggage cars		
2 mail, pass'r, and baggage cars combined		
1 pass'r and baggage cars combined		
28 caboose cars		
859 box cars		
349 stock cars		
521 flat & coal cars		
Hand cars		
Rubble cars		
1 wrecking cars		
Velocipedes		
Pay cars		
1 officers' cars		
Boarding cars		
18 refrigerator cars		
1 derricks		
1 pile-drivers		
Snow-plows		
1 steam shovel		

552.35 miles of R. V. R. R., in Nebr., .97750681 %.
12.71 " " " " " Kan., .02249319 %.
.02249319 % of above rolling stock assessable in Kan.
.97750681 % " " " " " " Nebr.

1986

Recapitulation.

Republican Valley R. R.

Total No.		
551.99	miles road-bed, right of way, and main track, @..	
62.36	" side track	
141.85	" telegraph line, 1 wire	
162.43	" " " 2 wires	
174.39	" " " 3 wires	
18.10	" " " 4 wires	
55.58	" " " 6 "	
745.14	acres depot grounds	
66	depots (2 temporary)	
50	section-houses	
88	tool-houses	
8	engine-houses & 7 turn-tables	
	Round-houses	
15	coal-houses	
1	" bin	
8	coal sheds & 3 platforms	
1	" chute, platform, & derrick	
	Water tanks	
32	water stations, 1 tank	
	Offices, dwellings, etc.	
	Furniture and fixtures	
	Fuel, ties, etc. — Track, bridge, shop tools, & mach'y	1,193 00
	Fuel, ties, etc. — Track & miscl. mat'l, oil, tallow, & waste	13,209 76
	Rolling stock	
65	stock yards	
8	" " scales	
1	track	
1	wagon	
44	miscellaneous buildings	
	Total	

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Republican Valley railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 13th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1987 *Assessment Return of the Atchison & Nebraska Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
23 engines		
7 passenger coaches, first class		
Passenger coaches, second class		
1 mail cars		
Express cars		
1 baggage cars		
2 mail, pass'r, and baggage cars combined		
1 pass'r and baggage cars combined		
8 caboose cars		
231 box cars		
93 stock cars		
140 flat cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
5 refrigerator cars		
Derricks		
1 pile-drivers		
Snow-plows		

1988 *Recapitulation.*

Total No.		A. & N. R. R.
107.85	miles road-bed, right of way, and main track, @	
17.42	" side track	
	" telegraph line, 1 wire	
54.35	" " " 2 wires	
36.73	" " " 3 wires	
16.77	" " " 4 wires	
159.93	acres depot grounds	
16	depots	
7	section-houses	
16	tool-houses	
2	engine-houses & 1 turn-table	
	Round-houses	
1	coal-house & platform	

Total No.		
2	coal sheds	
	Water tanks	
8	water stations	
	Offices, dwellings, etc	
	Furniture and fixtures	
Fuel, ties, etc.	Track & bridge & shop tools & mach'y	173 00
	Track & miscl. mat'l, oil, tallow, & waste	4,737 40
	Rolling stock	
16	stock yards	
1	" " scales	
1	track scales	
8	miscellaneous buildings	
	Total	

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Atchison & Nebraska railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR.

Subscribed in my presence and sworn to before me this 12th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1989 *Assessment Return of the Lincoln & Northwestern Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st*, 1893.

Rolling stock and personal property.

	Value of each.	Total value.
6 engines		
2 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
1 pass'r, bagg., & mail		
1 baggage cars		
1 pass'r, mail, express, and baggage cars combined		
1 pass'r and baggage cars combined		
2 caboose cars		

		Value of each.	Total value.
30	box cars		
12	stock cars		
18	flat & coal cars		
	Hand cars		
	Rubble cars		
	Wrecking cars		
	Velocipedes		
	Pay cars		
	Officers' cars		
	Boarding cars		
1	refrigerator cars		
	Derricks		
	Pile-drivers		
	Snow-plows		

1990 *Recapitulation.*

Lincoln & North Western.

Total No.			
73.49	miles road-bed, right of way, and main track, @		
6.24	" side track		
	" telegraph line, 1 wire		
73.49	" " " 2 wires		
	" " " 3 wires		
	" " " 4 wires		
75.33	acres depot grounds		
12	depots		
4	section-houses		
10	tool-houses		
1	engine-house & turn-table		
	Round-houses		
2	coal-houses		
	Coal sheds		
	Water tanks		
4	water stations		
	Offices, dwellings, etc.		
	Furniture and fixtures		
	Fuel, ties, etc. — Track, bridge, shop tools, & mach'y		400 00
	Fuel, ties, etc. — Track & miscl. mat'l, oil, tallow, & waste		3,348 88
	Rolling stock		
11	stock yards		
1	" " scales		
2	miscellaneous buildings		
	Total		

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to he Lincoln & North Western railroad, as required by law, to the est of my knowledge, and that the above-listed machine and re-air shops, general office buildings, storehouses, etc., and all real nd personal property are not outside of the right of way and depot rounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 12th day f April, 1893.

J. HODGE,
Notary Public.

[NOTARIAL SEAL.]

991 *Assessment Return of the Nebraska & Colorado Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 189–.*

Rolling stock and personal property.

	Value of each.	Total value.
3 engines		
4 passenger coaches, first class		
passenger, bagg., mail, & ex. c's		
mail cars		
express cars		
baggage cars		
mail, pass'r, and baggage cars combined		
pass'r and baggage cars combined		
caboose cars		
39 box cars		
39 stock cars		
96 flat coal cars		
and cars		
ubble cars		
'recking cars		
elocipedes		
ay cars		
fficers' cars		
oarding cars		
refrigerator cars		
erricks		
le-drivers		
now-plows		

1992

Recapitulation.

Nebraska & Colorado R. R.

Total No.			
430.71	miles road-bed, right of way, and main track, @..		
37.89	" side track.....		
366.63	" telegraph line, 1 wire		
	" " " 2 wires		
64.08	" " " 3 wires		
	" " " 4 wires		
371.93	acres depot grounds....		
51	depots		
43	section-houses....		
57	tool-houses		
6	engine-houses & 2 turn-tables		
	Round-houses		
17	coal-houses.....		
1	coal bin.....		
2	coal —, 1 coal platform & derrick.....		
	Water tanks.....		
19	Water stations.....		
	Offices, dwellings, etc.....		
	Furniture and fixtures....		
	Fuel, ties, etc. { Track, bridge, shop tools, & mach'y	630 00	
	Fuel, ties, etc. { Track & miscl. mat'l, oil, tallow, & waste.....	4,922 30	
	Rolling stock.....		
48	stock yards.....		
4	" " scales		
12	.....		
	Total		

I, J. G. Taylor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Nebraska & Colorado railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 13th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1993 *Assessment Return of the Chicago, Nebraska & Kansas Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st*, 1893.

Rolling stock and personal property.

	Value of each.	Total value.
2 engines		
2 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
1 mail, pass'r, and baggage cars combined		
2 pass'r and baggage cars combined		
1 caboose cars		
20 box cars		
8 stock cars		
12 flat & coal cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

65.76 miles C., N. & K. R. R. in Kansas, .9256757%.
5.28 " " " Nebraska, .0743243%.
.9256757% of above rolling stock assessable in Kan.
.0743243% " " " Nebr.

1994 *Recapitulation.*

C., N. & K. R. R.

Total No.		
5.28	miles road-bed, right of way, and main track, @	
.64	" side track	
5.28	" telegraph line, 1 wire	
"	" " 2 wires	
"	" " 3 wires	
"	" " 4 wires	
2.18	acres depot grounds	
1	depots	

Total No.		
1 section-houses		
1 tool-houses		
Engine-houses		
Round-houses		
Coal houses		
Coal sheds		
Water tanks		
Water stations		
Offices, dwellings, etc.		
Furniture and fixtures		
Fuel, ties, etc.	Track, bridge, shop tools & mach'y.	8 00
	Track & miscl. mat'l, oil, tallow, & waste	21 92
Rolling stock		
1 stock yards		
Total		

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Chicago, Nebraska & Kansas railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 12th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1995 *Assessment Return of the Republican Valley, Kansas & So. Western Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
3 engines		
2 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
1 mail, pass'r, and baggage cars combined		
2 pass'r and baggage cars combined		
1 caboose cars		

	Value of each.	Total value.
2 box cars		
stock cars		
3 flat & coal cars		
Hand cars		
Cubble cars		
Wrecking cars		
Velocipedes		
Hay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

9.73 miles of the R. V., K. & S. W. in Kansas, .891346%.
.50 " " " Neb., .108654%.
08654% of above rolling stock assessable in Neb.
91346% " " " Kan.

996 *Recapitulation.*

Republican Valley, Kansas & South Western.

Total No.		
50 miles	road-bed, right of way, and main track, @	
60 "	side track	
50 "	telegraph line, 1 wire	
"	" " 2 wires	
"	" " 3 wires	
"	" " 4 wires	
	Acres depot grounds	
	Depots	
1	section-houses	
	Tool-houses	
	Engine-houses	
	Round-houses	
	Coal-houses	
	Coal sheds	
	Water tanks	
	Water stations	
	Offices, dwellings, etc	
	Furniture and fixtures	
	Fuel, ties, etc. { Track, bridge, shop tools & mach'y. Track & miscl. mat'l, oil, tallow, & waste	25 75
	Rolling stock	
	Total	

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Republican Valley, Kansas & South Western railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 13th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1997 *Assessment Return of the Grand Island & Wyoming Central Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st,* 1893.

Rolling stock and personal property.

	Value of each.	Total value.
25 engines		
14 passenger coaches, first class		
Passenger coaches, second class		
1 mail cars		
1 express cars		
2 baggage cars		
Mail, express, and baggage cars combined		
Express and baggage cars combined		
20 caboose cars		
601 box cars		
244 stock cars		
364 flat cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
12 refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

1998

Recapitulation.

G. I. & W. C. R. R.

Total No.			
352.64	miles road-bed, right of way, and main track, @		
38.35	" side track		
	" telegraph line, 1 wire		
352.64	" " " 2 wires		
	" " " 3 wires		
	" " " 4 wires		
254.52	acres depot grounds		
29	depots		
37	section-houses		
14	tool-houses		
4	engine-houses & 2 turn-tables		
	Round-houses		
10	coal-houses		
1	coal sheds		
	Water tanks		
21	water stations		
	Offices, dwellings, etc.		
	Furniture and fixtures		
	Fuel, ties, etc. { Track, bridge, shop tools, & mach'y		400 00
	Fuel, ties, etc. { Track & miscl. mat'l, oil, tallow, & waste		6,788 66
	Rolling stock		
28	stock yards		
5	" " scales		
16	miscellaneous buildings		
3	elevated coal trestles		
	Total		

I, J. G. Taylor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Grand Island & Wyoming Central railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 12th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

1999 *Assessment Return of the Omaha & North Platte Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
7 engines		
6 passenger coaches, first class		
Passenger coaches, second class		
1 mail cars		
Express cars		
1 baggage cars		
1 mail, pass'r, and baggage cars combined		
1 pass'r and baggage cars combined		
3 caboose cars		
87 box cars		
36 stock cars		
53 flat & coal cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
2 refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

2000 *Recapitulation.*

Omaha & North Platte R. R.

Total No.		
80.78	miles road-bed, right of way, and main track, @	
14.81	" side track	
43.58	" telegraph line, 1 wire	
33.70	" " " 2 wires	
3.50	" " " 3 wires	
	" " " 4 wires	
93.79	acres depot grounds	
11	depots	
11	section-houses	
11	tool-houses	
1	engine-houses	
	Round-houses	
	Coal-houses	

Total No.		
1	coal sheds	
	Water tanks	
4	water stations	
	Offices, dwellings, etc.	
	Furniture and fixtures	
	Fuel, ties, etc. { Track, bridge, shop tools & mach'y	220 00
	Fuel, ties, etc. { Track & miscl. mat'l, oil, tallow, & waste	669 86
	Rolling stock	
10		
	Total	

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Omaha & North Platte railroad, as required by law, to the best of my knowledge, and that the al ove-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 12th day of April, 1893.

J. HODGE,
Notary Public.

[NOTARIAL SEAL.]

2001 *Assessment Return of the Lincoln & Black Hills Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st,* 1893.

Rolling stock and personal property.

	Value of each.	Total value.
6 engines		
3 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
1 baggage, pass'r, mail, & exp. cars		
2 mail, pass'r, and baggage cars combined		
1 pass'r and baggage cars combined		
1 caboose cars		
32 box cars		
13 stock cars		
20 flat & coal cars		
Hand cars		

	Value of each.	Total value.
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
1 refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

2002

Recapitulation.

Lincoln & Black Hills railroad.

Total No.			
157.88	miles road-bed, right of way, and main track, @.		
13.88	" side track		
113.49	" telegraph line, 1 wire		
44.39	" " " 2 wires		
	" " " 3 wires		
	" " " 4 wires		
144.76	acres depot grounds		
18	depots		
18	section-houses		
9	tool-houses		
3	engine-houses & 2 turn-tables		
	Round-houses		
3	coal-houses		
	Coal sheds		
	Water tanks		
9	water stations		
	Offices, dwellings, etc		
	Furniture and fixtures		
	Fuel, ties, etc. { Track, bridge, shop tools & mach'y		435 00
	Fuel, ties, etc. { Track, miscl. mat'l, oil, tallow, & waste		910 76
	Rolling stock		
18	stock yards		
3	miscellaneous buildings		
	Total		

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Lincoln & Black Hills railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 12th day of April, 1893.

J. HODGE,
Notary Public.

[NOTARIAL SEAL.]

2003 *Assessment Return of the Oxford & Kansas Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 189–.*

Rolling stock and personal property.

	Value of each.	Total value.
2 engines		
1 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
1 pass'r, mail, express, and baggage cars combined		
1 pass'r and baggage & mail cars combined		
1 caboose cars		
25 box cars		
10 stock cars		
15 flat & coal cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

2004 *Recapitulation.*

Oxford & Kansas R. R.

Total No.		
59.61	miles road-bed, right of way, and main track, @	
4.78	" side track	
59.61	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
52.33	acres depot grounds	
6	depots	

Total No.		
7	section-houses	
8	tool-houses	
	Engine-houses	
	Round-houses	
1	coal-houses	
	Coal sheds	
	Water tanks	
3	water stations	
	Offices, dwellings, etc	
	Furniture and fixtures	
	Fuel, ties, etc. — Track, bridge, shop tools & mach'y	118 00
	Fuel, ties, etc. — Track & miscl. mat'l, oil, tallow, & waste	208 40
	Rolling stock	
6		
	Total	

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Oxford & Kansas railroad, as required by law, to the best of my knowledge, and that the above-listed machine aud repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 13th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

2005 *Assessment Return of the Republican Valley & Wyoming Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st*, 1893.

Rolling stock and personal property.

	Value of each.	Total value.
2 engines		
1 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
1 pass'r, mail, express, and baggage cars combined		

	Value of each.	Total value.
Express and baggage cars combined.....		
Caboose cars.....		
10 box cars.....		
4 stock cars.....		
6 flat & coal cars.....		
Hand cars.....		
Rubble cars.....		
Wrecking cars.....		
Velocipedes.....		
Pay cars.....		
Officers' cars.....		
Boarding cars.....		
Refrigerator cars.....		
Derricks.....		
Pile-drivers.....		
Snow-plows.....		

2006 *Recapitulation.*

Republican Valley & Wyoming R. R.

Total No.				
49.17	miles road-bed, right of way, and main track, @..			
2.52	" side track.....			
49.23	" telegraph line, 1 wire.....			
	" " " 2 wires.....			
	" " " 3 wires.....			
	" " " 4 wires.....			
39.51	acres depot grounds.....			
4	depots.....			
3	section-houses.....			
5	tool-houses.....			
	Engine-houses.....			
	Round-houses.....			
1	coal-houses.....			
	Coal-sheds.....			
	Water tanks.....			
3	water stations.....			
	Offices, dwellings, etc.....			
	Furniture and fixtures.....			
	Fuel, ties, etc. { Track, bridge, shops, tools, & mach'y.....			82 00
	Fuel, ties, etc. { Track, miscl. mat'l, oil, tallow, & waste.....			281 89
	Rolling stock.....			
4	stock yards.....			
1	turn-table.....			
	Total.....			

I, J. G. Taylor, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Republican Valley & Wyoming railroad, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. TAYLOR, *Auditor.*

Subscribed in my presence and sworn to before me this 13th day of April, 1893.

[NOTARIAL SEAL.]

J. HODGE,
Notary Public.

2007 *Assessment Return of the Union Pacific Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
137 engines	1,125	154,125
37 passenger coaches, first class	600	22,200
7 passenger coaches, second class	400	2,800
5 mail cars	600	3,000
3 express cars	500	1,500
12 baggage cars	500	6,000
5 mail, express, and baggage cars combined	500	2,500
2 express and baggage cars combined	500	1,000
53 caboose cars	100	5,300
1,622 box cars	65	105,430
269 stock cars	55	14,795
610 flat cars	45	27,450
80 hand cars	5	400
77 rubble cars	4	308
5 wrecking cars	75	375
Velocipedes		
Pay cars		
3 officers' cars	700	2,100
9 boarding cars	45	405
152 refrigerator cars	125	19,000
3 derricks	300	900
2 pile-drivers	120	240
8 snow-plows	150	1,200
		371,028

008 *Recapitulation.*

tal No.

37.22	miles road-bed, right of way, and main track, @ 3,000	1,401,660
04.34	miles side track, 1,000	204,340
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
59.29	acres depot grounds	7,928
54	depots	25,884
60	section-houses	3,690
69	tool-houses	219
1	engine-houses	40
4	round-houses	16,600
7	coal-houses	2,880
	Coal sheds	
33	water tanks	6,480
	Water stations	
47	offices, dwellings, etc	7,545
	Furniture and fixtures	474
	Fuel, ties, etc	24,885
	Rolling stock	371,028
	Hotel furniture	725
	Total	2,074,378

I, A. W. Scribner, tax comm'r, do solemnly swear that I have sted within for assessment and taxation all the property belonging to the Union Pacific Railway Company, as required by law, to he best of my knowledge, and that the above-listed machine and epair shops, general office buildings, storehouses, etc., and all real nd personal property are not outside of the right of way and depot rounds.

A. W. SCRIBNER,
Tax Commissioner.

Subscribed in my presence and sworn to before me this third day f April, 1893.

N. W. CLARKHUFF,
Notary Public.

[NOTARIAL SEAL.]

2009 *Assessment Return of the Omaha & Republican Valley Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 189–.*

Rolling stock and personal property.

	Value of each.	Total value.
18 engines	1,100	19,800
1 passenger coaches, first class	600	600
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
3 mail, express, and baggage cars combined	500	1,500
Express and baggage cars combined		
1 caboose cars	100	100
248 box cars	60	14,880
8 stock cars	60	480
108 flat cars	50	5,400
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		
		42,760
Total mileage of O. and R. V. 482.05		
" " in Nebraska 414.44		
Proportion of rolling stock in Nebr. 86%		36,774
" " " Kan. 14%		

2010 *Recapitulation.*

Total No.		
225.75	miles road-bed, right of way, and main track, @ 2,500	
28.46	miles side track, 1,000	564,375
"	telegraph line, 1 wire	28,460
"	" " 2 wires	
"	" " 3 wires	
"	" " 4 wires	
205.39	acres depot grounds	1,031

Total No.		
29	depots	5,029
10	section-houses	759
9	tool-houses	54
5	engine-houses	640
2	round-houses	2,400
3	coal-houses	370
	Coal sheds	
9	water tanks	1,960
	Water stations	
8	offices, dwellings, etc	423
	Furniture and fixtures	191
	Fuel, ties, etc	1,487
	Rolling stock	20,031
	Total	627,201

I, A. W. Scribner, tax comm'r, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Omaha and Republican Valley R'y Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

A. W. SCRIBNER,
Tax Comm'r.

Subscribed in my presence and sworn to before me this 5th day of April, 1893.

A. W. SCRIBNER,
[SEAL NOTARY PUBLIC.] *Notary Public.*

2011

Recapitulation.

Total No.		
65.09	miles road-bed, right of way, and main track, @ 2,000	130,180
5.76	miles side track, 1,000	5,760
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
75.65	acres depot grounds	378
7	depots	1,260
1	section-houses	60
5	tool-houses	23
2	engine-houses	70
	Round-houses	
	Coal-houses	
	Coal sheds	

Total No.		
	Water tanks	
	Water stations	
	Offices, dwellings, etc.	
	Furniture and fixtures	
	Fuel, ties, etc.	40
	Rolling stock	137
		5,776
	Total	143,684

I, A. W. Scribner, tax comm'r, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Omaha and Republican Valley R'y Co., Albion and Cedar Rapids branches, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

A. W. SCRIBNER,
Tax Comm'r.

Subscribed in my presence and sworn to before me this 5 day of April, 1893.

[NOTARIAL SEAL.]

N. W. CLARKHUFF,
Notary Public.

2012

Recapitulation.

Total No.		
123.60	miles road-bed, right of way, and main track, @ 2,000	247,200
9.76	miles side track, 1,000	9,760
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
117.42	acres depot grounds	586
12	depots	2,530
3	section-houses	180
	Tool-houses	
2	engine-houses	120
	Round-houses	
	Coal-houses	
	Coal sheds	
4	water tanks	860
	Water stations	
	Offices, dwellings, etc.	
	Furniture and fixtures	91
	Fuel, ties, etc.	111
	Rolling stock	10,967
	Total	272,405

I, A. W. Scribner, tax comm'r, do solemnly swear that I have isted within for assessment and taxation all the property belonging to the Omaha & Republican Valley R'y Co. (Ord, Loup City, nd Pleasanton branches), as required by law, to the best of my nowledge, and that the above-listed machine and repair shops, eneral office buildings, storehouses, etc., and all real and personal roperty are not outside of the right of way and depot grounds.

A. W. SCRIBNER,
Tax Comm'r.

Subscribed in my presence and sworn to before me this 5th day f April, 1893.

N. W. CLARKHUFF,
[NOTARIAL SEAL.] *Notary Public.*

013 *Assessment Return of the St. Joseph & Grand Island Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st*, 1893.

Rolling stock and personal property.

	Value of each.	Total value.
4 engines	2,500	85,000
0 passenger coaches, first class	1,500	15,000
assenger coaches, second class		
mail cars & coach combined	1,000	5,000
xpress cars		
baggage cars, coach & mail combined	1,000	4,000
lail, express, and baggage cars combined		
express and baggage cars combined	900	5,400
8 caboose cars	300	5,400
75 box cars	175	135,625
0 stock cars	175	15,750
09 flat cars	150	16,350
00 { hand cars / rubble cars	10	1,000
Wrecking cars		
elocipedes		
ay cars		
officers' cars	4,500	4,500
oarding cars		
efrigerator cars		
derricks	600	600
pile-drivers	1,500	1,500
ow-plows		
		295,125
95,125 for 444.74 miles = $663.59 per mile's portion to St. J. & G. I. R. R. in Nebraska, 112.53 miles		$74,673 78

2014

Recapitulation.

Total No.		
112.53	miles road-bed, right of way, and main track, @ 3,000	337,590
9.11	miles side track, 1,000	9,110
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
85	acres depot grounds, $5	425
15	depots, 350	5,250
10	section-houses, 200	2,000
1	tool-houses	10
	Engine-houses	
	Round-houses	
13	coal-houses for stations, 10	130
	Coal sheds	
	Water tanks	
3	water stations, 250	750
4	offices, dwellings, etc	400
	Furniture and fixtures	225
	Fuel, ties, etc	240
	Rolling stock	74,674
1	turn-table	50
	Total	430,854

$3,828.79 per mile.

I, J. G. Drew, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the St. Joseph & Grand Island Railroad Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. DREW, *Auditor.*

Subscribed in my presence and sworn to before me this 31st day of March, 1893.

[NOTARIAL SEAL.] G. D. BERRY.

2015 *Assessment Return of the Kansas City and Omaha Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
34 engines	2,500	85,000
10 passenger coaches, first class	1,500	15,000
5 passenger coaches, second class & mail combined	1,000	5,000
4 mail cars, passenger and coach combined	1,000	4,000
Express cars		
Baggage cars		
Mail, express, and baggage cars combined		
6 express and baggage cars combined	900	5,400
18 caboose cars	300	5,400
775 box cars	175	135,625
90 stock cars	175	15,750
109 flat cars	150	16,350
100 { hand cars	10	1,000
{ rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
officers' cars	4,500	4,500
Boarding cars		
Refrigerator cars		
derricks	600	600
pile-drivers	1,500	1,500
snow-plows		
		$295,125

295,125 for 444.74 miles of road equals $663.59 per mile proportion to K. C. & O. R. R. in Nebr., 193.38 miles $128,325 00

016 *Recapitulation.*

Total No.		
193.38	miles road-bed, right of way, and main track, @ 2,000	387,760
12.29	miles side track, 1,000	12,290
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
40.41	acres depot grounds, 5	702

Total No.		
25	depots, 350	8,750
9	section-houses, 200	1,800
1	tool-houses	10
3	engine-houses	1,000
	Round-houses	
1	coal-houses	10
1	coal sheds	350
11	water tanks, 250	2,750
	Water stations	
	Offices, dwellings, etc	
	Furniture and fixtures	375
	Fuel, ties, etc	650
	Rolling stock	128,325
	Total	543,772

I, J. G. Drew, auditor, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Kansas City and Omaha Railroad Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. G. DREW, *Auditor.*

Subscribed in my presence and sworn to before me this 31st day of March, 1893.

[NOTARIAL SEAL.] G. D. BERRY.

2017 *Assessment Return of the Missouri Pacific Railway Co.* Railroad Company, *to the Auditor of Public Accounts of the State of Nebraska April 1st,* 1893.

Rolling stock and personal property.

Nebraska extension.

	Value of each.	Total value.
8 engines	3,500	28,000 00
4 passenger coaches, first class	2,000	8,000 00
2 passenger coaches, second class	1,200	2,400 00
2 mail cars	750	1,500 00
2 express cars	750	1,500 00
2 baggage cars	600	1,200 00
1 mail, express, and baggage cars combined	750	750 00
1 express and baggage cars combined	750	750 00
4 caboose cars	300	1,200 00
150 box cars	200	30,000 00
70 stock cars	175	12,250 00
100 flat cars	150	15,000 00

	Value of each.	Total value.
15 hand cars	15	225 00
10 rubble cars	10	100 00
1 wrecking cars	300	300 00
Velocipedes		
Pay cars		
Officers' cars		
4 boarding cars	250	1,000 00
Refrigerator cars		
1 derricks	300	300 00
1 pile-drivers	400	400 00
1 snow-plows	100	100 00
Total value of rolling stock on 243.89 miles		104,975 00

Number of miles on which rolling stock is used in the State of Nebraska as follows, viz:

The Missouri Pacific Railway Co., Nebraska extension	117 06
Nebraska City branch	42 88
Lincoln branch	33 62
Total mileage in State	193 56
Mileage out of State (elsewhere)	50 33
Total mileage on which rolling stock is used	243 89

2018 *Recapitulation.*

Total No.		
193.56	miles road-bed, right of way, and main track, @ 3,000	580,680
43.98	miles side track, 1,500	65,970
	" telegraph line, 1 wire	
193.56	" " " 2 wires, 50	9,678
	" " " 3 wires	
	" " " 4 wires	
220	acres depot grounds	5,850
35	depots	8,800
14	section-houses	2,100
8	tool-houses	200
3	engine-houses	1,950
1	houses, ice	150
5	coal-houses	270
3	coal sheds	450
9	water tanks, stock yards	1,450
18	water stations	450
	Offices, dwellings, etc.	

	Total No.	
Furniture and fixtures		515
Fuel, ties, etc		1,830
Rolling stock, 79 % of $104,975.00		82,930 25
1 car-repair shop		100
Total		763,373 25

I, S. L. Highleyman, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Missouri Pacific Railway Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

S. L. HIGHLEYMAN,
Tax Comm'r.

Subscribed in my presence and sworn to before me this 1st day of April, 1893.

My commission expires Sept. 2nd, 1896.

HENRY C. HERBEL,
Notary Public, City of St. Louis, Mo.

2019 *Assessment Return of the Omaha Southern Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 189–.*

Rolling stock and personal property.

New line.

	Value of each.	Total value.
2 engines	3,500	7,000 00
1 passenger coaches, first class	2,000	2,000 00
1 passenger coaches, second class	1,200	1,200 00
Mail cars		
Express cars		
Baggage cars		
Mail, express, and baggage cars combined		
1 express and baggage cars combined	750	750 00
1 caboose cars	300	300 00
10 box cars	200	2,000 00
10 stock cars	175	1,750 00
10 flat cars	150	1,500 00
5 hand cars	15	75 00
5 rubble cars	10	50 00
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		

	Value of each.	Total value.
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		
Total value rolling stock on 25.50 miles		$16,625 00

020 *Recapitulation.*

Omaha Southern R'y.

Total No.		
25.50	miles road-bed, right of way, and main track, @ 3,000	76,500
2.64	miles side track, 1,500	2,940
25.50	" telegraph line, 1 wire, 30	765
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
20	acres depot grounds, 5	100
4	depots, 200	800
	Section-houses	
	Tool-houses	
	Engine-houses	
	Round-houses	
	Coal-houses	
	Coal sheds	
1	water tanks, 150	150
	Water stations	
	Offices, dwellings, etc	
	Furniture and fixtures	45
	Fuel, ties, etc	200
	Rolling stock	16,625
	Total	98,125

I, S. L. Highleyman, do solemnly swear that I have listed within assessment and taxation all the property belonging to the Missouri cific Railway Co., as required by law, to the best of my knowlge, and that the above-listed machine and repair shops, general ice buildings, storehouses, etc., and all real and personal property e not outside of the right of way and depot grounds.

S. L. HIGHLEYMAN,
Tax Comm'r.

Subscribed in my presence and sworn to before me this 1st day April, 1893.

HENRY G. HERBEL,
[SEAL.] *Notary Public, City of St. Louis, Mo.*

My commission expires Sept. 2nd, 1896.

2021 *Assessment Return of the Missouri Pacific Railway Co.* Railroad Company *to the Auditor of Public Accounts of the State of Nebraska April 1st*, 1893.

Rolling stock and personal property.

Crete branch.

	Value of each.	Total Value.
1 engines	3,500	3,500 00
Passenger coaches, first class		
1 Passenger coaches, second class	1,200	1,200 00
Mail cars		
Express cars		
Baggage cars		
Mail, express, and baggage cars combined		
1 express and baggage cars combined	750	750 00
Caboose cars		
10 box cars	200	2,000 00
6 stock cars	175	1,050 00
10 flat cars	150	1,500 00
6 hand cars	15	90 00
Rubble cars	10	60 00
Wrecking cars		
1 velocipedes	10	10 00
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		
Total valuation rolling stock on 58.18 miles		10,160 00

The Missouri Pacific Railway Co.

2022 *Recapitulation.*

The Missouri Pacific Railway Co.

Crete branch.

Total No.			
58.18	miles road-bed, right of way, and main track, @ $2,000		116,360
4.15	miles side track, 1,500		6,225
58.18	" telegraph line, 1 wire, 30		1,745 40
	" " " 2 wires		
	" " " 3 wires		
	" " " 4 wires		

	Total No.
45 acres depot grounds	225
8 depots	1,600
Section-houses	
Tool-houses	
1 engine-houses	250
Round-houses	
Coal-houses	
Coal sheds	
3 water tanks	450
Water stations	
Offices, dwellings, etc.	
Furniture and fixtures	120
Fuel, ties, etc.	580
Rolling stock	10,160
Total	137,715 40

I, S. L. Highleyman, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Missouri Pacific Railway Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

S. L. HIGHLEYMAN,
Tax Comm'r.

Subscribed in my presence and sworn to before me this 1st day of April, 1893.

[SEAL.]

HENRY G. HERBEL,
Notary Public, City of St. Louis, Mo.

My commission expires Sept. 2nd, 1896.

2023 *Assessment Return of the Pacific Railway Co. (in Nebraska)* Railroad Company *to the Auditor of Public Accounts of the State of Nebraska April 1st*, 1893.

Rolling stock and personal property.

Jewell branch.

	Value of each.	Total value.
2 engines	3,500	7,000 00
1 passenger coaches, first class	2,000	2,000 00
1 passenger coaches, second class	1,200	1,200 00
Mail cars		
Express cars		
Baggage cars		
1 mail, express, and baggage cars combined	750	750 00

	Value of each.	Total value.
Express and baggage cars combined		
1 caboose cars	300	300 00
10 box cars	200	2,000 00
7 stock cars	175	1,225 00
10 flat cars	150	1,500 00
7 hand cars	15	105 00
7 rubble cars	10	70 00
Wrecking cars		
2 velocipedes	10	20 00
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		
Total value of rolling stock on 73.01 miles		16,170 00
Number of miles on which rolling stock is used in the State of Nebraska		71.22
Mileage out of State		1.79
Total mileage on which rolling stock is used		73.01

2024

Recapitulation.

Pacific Railway Co. (in Nebr.).

Jewell branch.

Total No.		
71.22	miles road-bed, right of way, and main track, @ $2,500	178,000
3.00	miles side track, 1,500	4,500
71.22	" telegraph line, 1 wire, 30	2,136 60
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
40	acres depot grounds	200
8	depots	1,600
	Section-houses	
	Tool-houses	
1	engine-houses	300
	Round-houses	
	Coal-houses	
	Coal sheds	
5	water tanks	750
4	water stations, stock yards	

Total No.		
	Offices, dwellings, etc	100
	Furniture and fixtures	
	Fuel, ties, etc	120
	Rolling stock	680
	97 % of 16,170.00	15,685
	Total	204,071 60

I, S. L. Highleyman, do solemnly swear that I have listed within or assessment and taxation all the property belonging to the Pacific Railway Co. (in Nebraska), as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

S. L. HIGHLEYMAN,
Tax Comm'r.

Subscribed in my presence and sworn to before me this 1st day of April, 1893.

[SEAL.]

HENRY G. HERBEL,
Notary Public, City of St. Louis, Mo.

My commission expires Sept. 2nd, 1896.

025 *Assessment Return of the Kansas City and Beatrice Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st*, 1893.

Rolling stock and personal property.

	Value of each.	Total value.
8 engines	3,500	63,000
passenger coaches, first class	2,000	16,000
passenger coaches, second class	1,200	9,600
Iail cars		
xpress cars		
baggage cars	600	2,400
mail, express, and baggage cars combined	750	2,250
xpress and baggage cars combined		
caboose cars	300	2,700
45 box cars	200	49,000
0 stock cars	175	6,825
8 flat cars	150	7,200
0 hand cars	15	300
0 rubble cars	10	100
Wrecking cars		
elocipedes		
{ Pay cars	1,000	1,000
{ Officers' cars		

	Value of each.	Total value.
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
1 bridge and building car	200	200
113 coal cars	150	16,950
Total		177,525
Kansas City and Beatrice R. R. mileage in State		20.10
Kansas City, Wyandotte & N. W. R'y mileage out of State.		173.60
Total mileage on which rolling stock is run		193.70

Proportion in Nebraska, say 10 per cent.
Proportion elsewhere, say 90 per cent.

2026 *Recapitulation.*

Total No.			
20.10	miles road-bed, right of way, and main track, @ 2,000		40,200 00
80	miles side track, 750		600 00
"	telegraph line, 1 wire		
20.10	" " " 2 wires, 50		1,005 00
"	" " 3 wires		
"	" " 4 wires		
15.6	acres depot grounds		156 00
2	depots		400 00
	Section-houses		
	Tool-houses		
	Engine-houses		
	Round-houses		
	Coal-houses		
	Coal sheds		
	Water tanks		
	Water stations		
	Offices, dwellings, etc		
	Furniture and fixtures		10 00
	Fuel, ties, etc		30 00
	Rolling stock		
3	stock pens		120 00
	Total		

I, Simon Cronin, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Kansas City and Beatrice railroad, as required by law, to the best of my

knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

SIMON CRONIN,
Superintendent.

Subscribed in my presence and sworn to before me this 27th day of May, 1893.

[SEAL.]

CHAS. WILSON,
Notary Public.

My commission expires May 15th, 1895.

2027 *Assessment Return of the Sioux City and Pacific Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
2 engines	$2,000	4,000
Passenger coaches, first class		
1 passenger coaches, second class	....	500
Mail cars		
Express cars		
1 baggage cars	....	300
1 mail, express, and baggage cars combined	....	400
Express and baggage cars combined		
3 caboose cars	425	1,275
68 box cars	150	10,200
4 stock cars	150	600
9 flat cars	100	900
5 hand cars	15	75
5 rubble cars	5	25
Wrecking cars		
Velocipedes		
Pay cars		
officers' cars	....	900
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		
		$19,175

2028 *Recapitulation.*

	Total No.		
Miles road-bed, right of way, and main track, @ 2,500		26.95	67,375
" side track, 1,000		5.01	5,010
" telegraph line, 1 wire.	This property belongs to Western Union Telegraph Company.		
" " " 2 wires.			
" " " 3 wires.			
" " " 4 wires.			
Acres depot grounds, value included in 1st item		111.42	
6 depots		6	1,800
3 section-houses		3	300
4 tool-houses		4	80
Engine-houses			
Round-houses			
Coal-houses			
1 coal sheds		1	200
4 water tanks		4	800
Water stations			
Office, dwellings, etc.			
Furniture and fixtures		....	225
Fuel, ties, etc.		....	215 43
Rolling stock		....	19,175
Total			$95,180 43

I, J. B. Redfield, secretary, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Sioux City and Pacific Railroad Company, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. B. REDFIELD, *Secretary.*

Subscribed in my presence and sworn to before me this 4th day of April, 1893.

[SEAL.]

J. F. CLEVELAND,
Notary Public.

2029 *Assessment Return of the Fremont, Elkhorn & Missouri Valley Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
70 engines	2,000	140,000
23 passenger coaches, first class	800	18,400
8 passenger coaches, second class	500	4,000
2 mail cars	300	600
None express cars		
5 baggage cars	300	1,500
8 mail, express, and baggage cars combined	400	3,200
None express and baggage cars combined		
46 caboose cars	425	19,550
1,847 box cars	150	277,050
529 stock cars	150	79,350
479 flat cars	100	47,900
155 hand cars	15	2,325
141 rubble cars	5	705
1 wrecking cars	150	150
15 velocipedes	15	225
None pay cars		
1 officers' cars	900	900
6 boarding cars	150	900
None refrigerator cars		
1 derricks	150	150
1 pile-drivers	150	150
1 snow-plows, rotary	....	3,500
		$600,555

2030 *Recapitulation.*

Total No.			
	Miles road-bed, right of way, and main track, @ 2,500	980.49	2,451,225
	Miles side track, 1,000	76.75	76,750
	" telegraph line, 1 wire. } This property belongs to the Western Union Telegraph Company.		
	" " " 2 wires.		
	" " " 3 wires.		
	" " " 4 wires.		
	Acres depot grounds, value included in 1st item	1,413.29	
108	depots	....	32,400
142	section-houses	....	14,200
105	tool-houses	....	2,100
11	engine-houses	....	5,400

Total No.			
	Round-houses		
5	coal-houses	....	250
18	coal-sheds	....	3,600
51	water tanks	....	10,200
	Water stations		
1	offices, dwellings, etc	....	400
	Furniture and fixtures	....	21,390 51
	Fuel, ties, etc	....	30,170 59
	Rolling stock	....	600,555
5	warehouses	....	1,000
3	eating-houses	....	1,500
1	machine shop	....	200
	Total		$3,251,341 10

I, J. B. Redfield, secretary, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Fremont, Elkhorn and Missouri Valley Railroad Company, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. B. REDFIELD, *Secretary.*

Subscribed in my presence and sworn to before me this 4th day of April, 1893.

[SEAL.]

J. F. CLEVELAND,
Notary Public.

2031 *Assessment Return of the Chicago, St. Paul, Minneapolis and Omaha Railroad Company to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
18 engines	5,000	90,000
10 passenger coaches, first class	1,000	10,000
7 passenger coaches, second class (combination)	1,000	7,000
2 mail cars	1,000	2,000
1 chair car	3,000	3,000
3 baggage cars	800	2,400
1 mail & express cars combined	1,000	1,000
Express and baggage cars combined		
10 caboose cars	375	3,750
100 box cars	275	27,500
25 stock cars	275	6,875

	Value of each.	Total value.
25 flat cars	200	5,000
47 hand cars	20	940
47 rubble cars	20	940
2 wrecking cars	750	1,500
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
pile-drivers	....	750
Snow-plows		
5 coal cars	....	6,250
flanger	....	275
ditcher	....	750
		$169,930

1032

Recapitulation.

Total No.			
260.54	miles road-bed, right of way, and main track, @ 13,500	3,517,290	
155.08	miles side track, 1,000	55,080	
1.93	joint, ½	965	
None	miles telegraph line, 1 wire		
"	" " " 2 wires		
"	" " " 3 wires		
"	" " " 4 wires		
19.99	acres depot grounds	5,331	90
12.50	" " " joint, ½	62	50
36	depots	35,400	
13	section-houses	4,725	
29	tool-houses	575	
9	engine-houses	15,000	
7	turn-tables	2,400	
	Coal-houses		
9	coal sheds	2,040	
	Water tanks		
19	water stations	9,700	
	Offices, dwellings, etc		
	Furniture and fixtures	3,070	
	Fuel, ties, etc	17,140	
	Rolling stock	1,699	30
34	stock yards	2,455	
19	other buildings	2,360	
	Total	3,843,525	05

Reduction in average of depot grounds is due to the cutting off of lands by Missouri river at Covington, Dakota Co., Nebr.

I, E. E. Woodman, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Chicago, St. Paul, Minneapolis & Omaha Railway Company, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

E. E. WOODMAN.

Subscribed in my presence and sworn to before me this 8th day of May, 1893.

C. G. NASH,

[NOTARIAL SEAL.] *Notary Public, Ramsey Co., Minn.*

2033 *Assessment Return of the Chicago, Rock Island & Pacific Railroad Company between Omaha & Lincoln to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
4 engines		
2 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
2 mail, express, and baggage cars combined		
Express and baggage cars combined		
2 caboose cars		
40 box cars		
10 stock cars		
2 flat cars		
8 hand cars		
6 rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		
1 dining car		

2034 *Recapitulation.*

C., R. I. & P. R'y Co. between Omaha & Lincoln.

Total No.		
54.63	miles road-bed, right of way, and main track, @	163,890
5.93	" side track	8,895
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
59.30	acres depot grounds	593
9	depots	3,675
	Section-houses	
9	tool-houses	180
	Engine-houses	
	Round-houses	
1	coal platform	40
	Coal sheds	
1	water tanks	300
	Water stations	
	Offices, dwellings, etc	
	Furniture and fixtures	
	Fuel, ties, etc	
	Rolling stock	
1	freight-house	250
4	stock yards	120
	Total	

I, J. C. Cooper, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Chicago, Rock Island & Pacific R'y, as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. C. COOPER,
Tax Commissioner.

Subscribed in my presence and sworn to before me this 6th day of April, 1893.

[NOTARIAL SEAL.]

A. A. GRAHAM,
Notary Public.

My commission expires Oct. 16th, 1893.

2035 *Assessment Return of the Lincoln & Jansen Line, Chicago, Rock Island, and Pacific Railroad Company, to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

New line not in operation April 1st, 1893.

	Value of each.	Total value.
Engines		
Passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
Mail, express, and baggage cars combined		
Express and baggage cars combined		
Caboose cars		
Box cars		
Stock cars		
Flat cars		
Hand cars		
Rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
Pile-drivers		
Snow-plows		

Not in operation April 1st, 1893.

2036 *Recapitulation.*

C., R. I. & P. R'y, Lincoln & Jansen line.

Total No.			
51.97	miles road-bed, right of way, and main track, @		
5.63	" side track		
	" telegraph line, 1 wire		
	" " " 2 wires		
	" " " 3 wires		
	" " " 4 wires		
74	acres depot grounds		740
7	depots		4,500
	Section-houses		
3	tool-houses		60

	Total No.
Engine-houses	
Round-houses	
1 coal-houses	
Coal sheds	200
Water tanks	
Water stations	
Offices, dwellings, etc.	
Furniture and fixtures	
Fuel, ties, etc.	
Rolling stock	
Total	

I, J. C. Cooper, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Chicago, Rock Island & Pacific R'y Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. C. COOPER,
Tax Commissioner.

Subscribed in my presence and sworn to before me this 6th day of April, 1893.

A. A. GRAHAM,
Notary Public.

[NOTARIAL SEAL.]

My commission expires Oct. 16th, 1893.

2037 *Assessment Return of the St. Joseph Branch, Chicago, Rock Island and Pacific Railroad Company, to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
7 engines		
3 passenger coaches, first class		
Passenger coaches, second class		
Mail cars		
Express cars		
Baggage cars		
2 mail, express, and baggage cars combined		
Express and baggage cars combined		
3 caboose cars		
70 box cars		
20 stock cars		
10 flat cars		
12 hand cars		

	Value of each.	Total value.
11 rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
1 derricks		
Pile-drivers		
Snow-plows		

2038 *Recapitulation.*

C., R. I. & P. R'y, St. Joseph branch.

Total No.		
89.75	miles road-bed, right of way, and main track, @	269,250
10.77	" side track	16,155
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
59.20	acres depot grounds	592
11	depots	4,750
5	section-houses	575
12	tool-houses	240
	Engine-houses	
1	round-houses	2,500
2	coal platforms	60
1	coal sheds	300
5	water tanks	1,500
	Water stations	
	Offices, dwellings, etc.	
	Furniture and fixtures	295
	Fuel, ties, etc.	1,110
	Rolling stock	
13	stock yards	390
13	mixed buildings	1,730
	Total	

I, J. C. Cooper, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Chicago, Rock Island & Pacific R'y Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. C. COOPER,
Tax Commissioner.

Subscribed in my presence and sworn to before me this 6th day of April, 1893.

[NOTARIAL SEAL.] A. A. GRAHAM,
Notary Public.

My commission expires Oct. 16th, 1893.

2039 *Assessment Return of the Nelson Branch, Chicago, Rock Island & Pacific Railroad Company, to the Auditor of Public Accounts of the State of Nebraska April 1st, 1893.*

Rolling stock and personal property.

	Value of each.	Total value.
2 engines		
1 passenger coaches, first class		
Passenger coaches, second class		
1 mail cars, baggage, express, & passenger combined		
Express cars		
Baggage cars		
Mail, express, and baggage cars combined		
Express and baggage cars combined		
caboose cars		
10 box cars		
5 stock cars		
flat cars		
hand cars		
rubble cars		
Wrecking cars		
Velocipedes		
Pay cars		
Officers' cars		
Boarding cars		
Refrigerator cars		
Derricks		
File-drivers		
Snow-plows		

940

Recapitulation.

C., R. I. & P. R'y, Nelson branch.

Total No.		
31.53	miles road-bed, right of way, and main track, @	154,590
32.86	" side track	4,290
	" telegraph line, 1 wire	
	" " " 2 wires	
	" " " 3 wires	
	" " " 4 wires	
2.80	acres depot grounds	528

	Total No.
7 depots	3,150
1 section-houses, old dwelling	75
7 tool-houses	140
1 engine-houses, 2 stalls, wood	300
Round-houses	
Coal-houses	
Coal sheds	
2 water tanks	600
Water stations	
Offices, dwellings, etc.	
Furniture and fixtures	150
Fuel, ties, etc.	200
Rolling stock	
7 stock yards	210
3 mixed buildings	270
Total	

I, J. C. Cooper, do solemnly swear that I have listed within for assessment and taxation all the property belonging to the Chicago, Rock Island & Pacific R'y Co., as required by law, to the best of my knowledge, and that the above-listed machine and repair shops, general office buildings, storehouses, etc., and all real and personal property are not outside of the right of way and depot grounds.

J. C. COOPER,
Tax Commissioner.

Subscribed in my presence and sworn to before me this 6th day of April, 1893.

A. A. GRAHAM,
[NOTARIAL SEAL.] *Notary Public.*

My commission expires Oct. 16th, 1893.

2041 THE STATE OF NEBRASKA, } ss:
Office of Auditor of Public Accounts, }

I, Eugene Moore, auditor of public accounts of the State of Nebraska, do hereby certify that the above and foregoing, to which this certificate is attached, are true, complete, and correct copies of "assessment returns of rolling stock and personal property and recapitulations of all property as reported for assessment for the year 1893 by the railroads in this State," and which are part of the records and files of this office.

Witness my hand and official seal this 8th day of February, 1894.

[SEAL.] EUGENE MOORE,
Auditor of Public Accounts of Nebraska.

2042 DEFENDANTS' EXHIBIT "6."

To the honorable State board of equalization of Nebraska, Lincoln, Neb.

GENTLEMEN: On April 7th I filed with the auditor of public accounts our annual lists of all property of the Union Pacific and Omaha and Republican Valley Railway Companies in the State of Nebraska, as required by law, for assessment by your board for the current year. I desire now to supplement these returns with some statements of fact bearing upon the question of our assessment, having no doubt that a careful and considerate examination will be made, to the end that a fair and equitable adjustment of the taxes on all property may be arrived at. The valuation placed in our returns upon the property listed by us represents, as nearly as we could estimate it, one-fifth of its actual value.

That this is fully up to the rate of real value upon which the assessment of other classes of property in this State is based is, I think, beyond question. Probably one-sixth of actual value would be at present nearer the average assessed valuation of the property of individuals in the counties of the State through which the lines of our company extend.

In the counties of Douglas and Lancaster it is openly advertised that the percentage of assessed valuation to real value is ten per cent., and the advertisement, so far as I have been able to ascertain, comes very near the truth. The assessed valuation of the property of our company in Nebraska has, during the past few years, been about 35 or 40 per cent. of its actual value.

2043 It has thus been compelled to bear fully double its just proportion of the burdens of taxation. Instead of being a "tax-shirker," as has been charged by those who are misinformed or who wilfully misrepresent the facts, it can be clearly proven that the Union Pacific Company has contributed more largely in proportion to value, in the way of taxes, to the support of the State, county, and municipal government and of the public schools of this State than any other interest, either individual or corporate.

The taxes paid in the State of Nebraska on railroad property by the Union Pacific system for the year 1892 amounted to $324,316.57. Of this, the Union Pacific Railway Company paid on railroad property $239,680.31, and the O. & R. V. Railway Company paid $84,636.26.

I attach hereto for your consideration a comparative statement showing the earnings of and taxes paid by the Union Pacific lines in Nebraska and railroad lines in adjoining States. It will be seen that the Chicago & Northwestern Railway Company's main line in the State of Iowa, with much larger gross and net earnings and about the same assessed valuation as the Union Pacific in Nebraska, pays only a little more than one-half as much taxes per mile. The same is proportionately true of other roads in Iowa and of our main

lines in other States. The reason for this is the great inequalities existing in Nebraska as between the assessed valuation of railroad and other property. In Iowa, Kansas, and Wyoming they are placed more nearly on an equal footing.

2044 *Comparative Statement of Earnings and Taxes Paid.*

Were other classes of property in this State assessed as it is in the three other States mentioned, at from 30 to 40 per cent. of its actual value, we would not complain of our assessment. The levies would be correspondingly reduced and the burden of taxation more justly distributed.

Notwithstanding the great discrepancy existing in past years between the assessment of railroad and individual property, the assessed valuations of the property of individuals in the State has been constantly decreasing without any corresponding reduction in the assessment of railroad property.

I give below some figures taken from the published reports of the State auditor, showing a comparison of assessed valuations of various classes of property for the years 1889, 1892. From this it will be seen that nearly all kinds of property which the farmer owns and uses has decreased during these years in assessment about 15 per cent. on an average.

Comparative Statement of Assessed Valuations in Nebraska, 1891, 1892.

2045	1889.	1892.	Per cent. of reduction.
Agric. imp'ts	$1,312,552	$1,224,435	7
Carriages & wagons	Average, 7.71	Average, 6.21	20
Pianos	" 35.12	" 28.25	19
	"	" 3.92	
Cattle ($7,788,825)	" 4.79	($6,438,352)	
Horses ($9,754,487)	" 18.05	($8,476,504) 13.24	27
Mules & asses	" 21.37	Average, 15.22	29
Hogs	" 1.13	" 1.02	10
Improved lands	" 4.05	" 3.72	8

All property.	1889.	1892.	Reduction.
Kimball Co.	$885,906	$772,522	$113,384
Lincoln "	2,295,682	2,197,229	98,453
Buffalo "	3,582,254	3,408,842	173,412
Hall "	3,120,525	3,065,643	54,882
Merrick "	2,074,421	1,919,324	55,097

In comparison with the property of other railroads also we claim that the assessment of the Union Pacific is excessive; its main line, running all the way through the State of Nebraska, a distance of 467.22 miles, is assessed at $11,150 per mile. Only one other railroad in the State comes anywhere near equaling this in assessment, and that is the line of the Burlington road from Plattsmouth to Kearney, a distance of 191.51 miles. It is in the counties west of Kearney or Buffalo county that we complain most of our assessment. In these counties we pay on railroad property, exclusive of lands, a very large percentage of the total taxes.

In	Dawson	Co., 30	per cent.
"	Lincoln	" 39	"
"	Keith	" 46	"
"	Deuel	" 30	"
"	Cheyenne	" 30	"
"	Kimball	" 55	"

These percentages refer to taxes as assessed. The proportion of taxes actually collected on railroad property is very much larger. The small branch lines of the O. & R. V. Railway Company in northern Nebraska are assessed at $4,500 per mile, while the lines of other companies running practically through the same territory and with better road-beds and equipment are assessed at
2046 $3,500 per mile. I am unable to see why this discrepancy should exist.

The ease and facility with which railroad taxes are collected offers, especially in the western counties of the State, a constant temptation to extravagance, and even dishonesty, in the expenditure of the public funds. As an example of this I submit herewith some statements copied from the records of certain school districts in Keith county showing the manner of disposing of the funds which are paid in, principally by the railroad company. Our company has never objected to making a fair contribution for the support of these schools. School-houses of its building (through taxation of its road) dot the valleys, prairies, and plains from Omaha to the western limit of the State. The lands of the homesteaders, not being taxable until final proof is made in the United States land office, have for the most part escaped any share of its expense. Our company is willing that the best of teachers shall be employed and the best of appendages for school purposes furnished largely at its expense, but it, at the same time, asks that its share be not, through a disproportionate and excessive valuation of its property, swelled to such an extent as to encourage prodigality and waste.

In one school district in Dawson county there are eleven school-houses already built. In another school district in Keith county, where there are but ten children of school age, there are two good school-houses and a third is now being constructed for the accommodation of one child who found it too far to walk a mile and a quarter to one of the houses already built. This fact is verified by

a letter now in my possession from the county superintendent of said county.

It may be said that the gross earnings of the Union Pacific
2047 line through these western counties is larger in comparison than those of other lines extending through similar territory; but it should be remembered that these earnings are not derived from the traffic afforded by the counties, but mainly from sources beyond the limits of the State, from transcontinental traffic.

The enormous expense of securing this traffic and the small profit derived from it should be considered. In order to secure the business from the North Pacific slope it became necessary for our company to acquire, through lease, the lines of the Oregon Railway & Navigation system. The reports of our accounting department show an annual loss in transaction of the business of this Oregon system of about one million dollars annually, which must be made up from the net earnings of the parent company, and the business from this source is taxed through the other Western States.

I assume without argument that the gentlemen of the board understand fully the relations which the railroad construction has borne to the development of the State in the past and the necessities of the State for further railroad construction in order that such development may continue. I would not ettempt to advance this as a reason for discriminating in favor of railroad companies in the matter of taxation, but believe it to be a full and sufficient reason why railway property should not be discriminated against in such a way as to discourage railroad building, extension, and improvement.

In consideration of the facts herein presented we appeal to your honorable board for a reduction — the assessment of the Union Pacific lines in the State of Nebraska in order that the injustice complained of may be in a measure remedied and the property of our company placed upon a more equitable basis as compared
2048 with that of individuals, or, at least, with the property of other railroad companies in the State. It may be to- much to expect that full justice will be done at once. The glamorings of the classes hostile to railway interests may make it impolitic to make immediately so radical a change as the merits of the case will warrant. We do, however, seek for a measure of justice, and there is nowhere else we can go except to your board, sitting as a judicial body and clothed with judicial power, for this relief.

If it were possible under the law to make two separate and distinct assessments of the Union Pacific main line in the State, establishing one rate per mile for that pirtion of the line east of Kearney or the west lioe of Buffalo county and another rate per mile west of that point, I would suggest that it be done and would petition your board on behalf of our company to place the assessment of the western portion of the line at about $8,000 per mile. If the law will not permit of such an adjustment, we earnestly request that the mileage assessment of the Union Pacific main line through the

State be affixed at not more than $10,000 per mile, and of the north-ern branches of the O. & R. V. Railway Company at not exceeding $35,000 per mile.

This would still come far short of placing our company upon an equal basis with other tax-payers. It would, however, in some de-gree mitigate the wrong which it has heretofore suffered, and I am sure that such action on your part could not be criticized by any reasonable and fair-minded person of whatever political faith. As I understand it, it is the province of the State board of equalization to, so far as possible, equalize and adjust these matters, that the burden of taxation may fall equally upon all classes and
2049 subjects. I believe this is a part of the fundamental law of the State. Inasmuch as it is impossible to increase the valu-ations placed upon private property by the local assessors, is it not right and reasonable to ask that your board fix the valuation of railroad property, over the assessment of which it has full control, to more nearly correspond with the assessment of individuals? Trusting that the matters herein presented may receive your care-ful and favorable consideration, I remain

Very respectfully yours, A. W. SCRIBNER,
Tax Commissioner Union Pacific System.

Omaha, Nebraska, April 26th, 1893.

2050 STATE OF NEBRASKA, } ss:
Office of Auditor of Public Accounts, }

I, Eugene Moore, auditor of public accounts of the State of Nebraska, do hereby certify that the above and foregoing, to which this certificate is attached, is a true, complete, and correct copy of a statement received from A. W. Scribner, tax commissioner Union Pacific system, and which is a part of the records and files of this office.

Witness my hand and official seal this 8th day of February, 1894.

[SEAL.] EUGENE MOORE,
Auditor Public Accounts of Nebraska.

2051 DEF'TS' EXHIBIT "16."

Statement showing the amount and dates of bonds voted by municipalities in this State to the following-named railroads belonging to the Union Pacific Railway system.

Omaha, Niobrara & Black Hills Railroad Company.

Madison county	Union Creek precinct	July 1, 1879	$13,000
" "	Norfolk "	" " "	13,000
" "	Fairview "	" " "	2,800
Boone county		July " 1880	33,000
" "	Cedar precinct	Jan'y 1, 1885	6,000
Platt county	Columbus precinct	July 1, 1881	25,000

Hastings & Grand Island Railroad Company.

Hall county		July 1, 1879..	$75,000

Omaha & Republican Valley railway.

Butler county		July 1, 1877..	$119,000
Dixon county		Jan. 1, 1880..	20,000
Hall county	Grand Island precinct	July 1, 1880..	50,000
Lancaster county	Capitol pr't	July 1, 1880..	10,000
" "	Midland pre	July 1, 1880..	10,000
Polk county		Jan. 1, 1879..	80,000
Saunders county	Oak Creek prec't	Jan. 1, 1880..	6,000
Saunders county		Jan. 1, 1877..	80,000
Greely county	Scotia prec't	Jan. 1, 1883..	5,000
Gage county	Beatrice pre	Jan. 1, 1880..	20,000
" "	Blue Springs pre	Jan. 1, 1880..	20,000
Howard county		Jan. 1, 1886..	20,000
Sherman Co.	Loup City pre	Apr. 20, 1886..	2,000
Sherman Co.		Sep. 1, 1886..	30,000
Valley Co.	Loup pre	May 22, 1882..	4,000
" "	Village of Ord	Jan. 1, 1886..	3,200
" "	Ord pre	Jan. 1, 1886..	1,200

2052 Kansas City & Omaha Railroad Company.

Adams county	Little Blue pre	July 1, 1888..	3,000
Clay county	Fairfield pre	Jan. 1, 1887..	20,000
Clay county	Lone Tree pre	Jan. 1, 1887..	12,000
" "	Sutton prec't	Jan. 1, 1887..	20,000
" "	Lewis prec't	Jan. 1, 1887..	8,000
" "	School Creek pre	Jan. 1, 1887..	5,000
" "	Spring Ranch pr	July 1, 1887..	8,000
Fillmore Co.	Fairmont prec't	July 1, 1887..	30,000
" "	Madison pre	July 1, 1887..	5,000
Harlan county	Alma township	July 1, 1887..	6,500
" "	Washington t'p	July 1, 1887..	1,500
" "	Turkey Creek t'p	July 1, 1887..	3,000
" "	Antelope t'p	July 1, 1887..	5,000
" "	City of Alma	July 1, 1887..	9,000
Kearney county	May township	July 1, 1887..	9,000
" "	Hayes t'p	July 1, 1887..	14,000
" "	Lincoln t'p	July 1, 1887..	23,500
Jefferson county	Fairbury City	July 1, 1887..	10,000
Saline county	Olive precinct	July 1, 1887..	13,000
York county	City of York	July 1, 1887..	10,000
" "	York township	Aug. 1, 1887..	5,000
" "	Leroy t'p	July 1, 1887..	8,000
" "	Lockridge t'p	July 1, 1887..	8,000
" "	Henderson t'p	July 1, 1887..	5,000
" "	Morton t'p	July 1, 1887..	9,000
" "	Hayes t'p	July 1, 1887..	9,000
" "	McFadden t'p	July 1, 1887..	10,000

2053 *Chicago & Northwestern System.*

Fremont, Elkhorn & Missouri Valley railroad.

Antelope county	Twin Grove pre	Jan. 1, 1880	$10,000
" "	Central precinct	June 1, 1880	10,000
Stanton county		Apr. 8, 1880	40,000
Lancaster county	Lincoln City	Nov. 10, 1886	50,000
Adams county	Hastings	Oct. 1. 1887	60,000
Butler county	Town of Olive	Sep. 1, 1887	6,000
Clay county	Harvard prec't	Oct. 1, 1887	25,000
Butler county	Town of Read	Sep. 1, 1887	10,000
" "	Town of Blue Creek	" " "	10,000
" "	Union	" " "	6,000
" "	Oak Creek	" " "	6,000
" "	David City	" " "	7,000
" "	Town of Franklin	" " "	7,000
Boone county	Manchester pre	July 1, "	10,000
Clay county	Lincoln pre	Oct. 1, "	7,000
Fillmore county	Madison pre	Sept. 1, 1887	5,000
" "	Geneva pre	" " "	1,500
" "	Exeter	" " "	20,000
" "	Stanton	" " "	8,000
Seward county	City of Seward	July "	15,000
" "	Town of "G"	" " "	10,000
" "	" " "B"	" " "	10,000
" "	" " "M"	" " "	10,000
" "	" " "L"	" " "	5,000
York county	Town of Baker	Oct. 1, "	10,000

Covington, Columbus & Black Hills railroad.

Dixon county		Jan. 1, 1887	87,000
Dakota county		Jan. 1, 1876	95,000

2054 *Chicago, Rock Island & Pacific Railway System.*

Chicago, Kansas & Nebraska.

Gage county	Lincoln township	Jan. 1, 1887	$7,000
Jefferson Co	Lincoln pre	Jan. 1, 1887	5,000
" "	Jefferson pre	" " "	5,000
" "	Fairbury pre	" " "	40,000
" "	City of Fairbury	Nov. 1, 1886	5,000
Nuckolls Co	Nelson pre	July 1, 1887	22,000
" "	Spring Creek pre	" " "	6,000
" "	Nora pre	Jan. 1, 1887	4,000
" "	Victor pre	Jan. 1, 1888	15,000
Pawnee Co	South Fork pr	June 1, 1887	10,000
" "	Pawnee City pr'c't	July 1, 1886	25,000
Thayer county	Spring Creek pr'c't	July 1, 1887	10,000
" "	Hebron	" " "	30,000
Jefferson Co	City of Fairbury	Sept. 1, 1887	11,000

2055 *Burlington & Missouri River Railroad System.*

Republican Valley railroad.

Hamilton Co.		Jan. 1, 1880. .	$40,000
Merrick Co.		July 1, 1880. .	40,000
Webster Co.		Jan. 1, 1879. .	45,000
Adams county	Denver precinct	" " " . .	20,000
Franklin Co.		Oct. 1879. .	30,000
Hamilton Co.	Aurora precinct	Jan. 1, 1880. .	8,000
" "	Valley precinct	" " " . .	2,000
Pawnee county		Dec. 6, 1881. .	75,000

Lincoln & Northwestern railroad.

Platt county		Jan. 1, 1880. .	10,000
Butler county	Franklin precinct	July 10, 1879. .	17,000
" "	Union precinct	" " " . .	5,000
" "	Center "	" " " . .	3,000
" "	Ulysses "	" " " . .	9,000
" "	Savannah "	" " " . .	8,000
Lancaster Co.	City of Lincoln	Jan. 1, 1880. .	25,000

(After being leased to B. & M. H. R. in Neb.)

Nebraska & Colorado railroad.

Fillmore county	Village of Geneva	Jan. 26, 1886. .	4,500

2056 *Missouri Pacific Railway System.*

Missouri Pacific railway.

Lancaster county	City of Lincoln	Feb. 1, 1886. .	$20,000
Otoe county	Nebraska City pre.	Dec. 1, 1886. .	40,000
Richardson Co.	Falls City pre.	Jan. 1, 1882. .	50,000
Saline county	Crete precinct	Aug. 1, 1887. .	35,000

Pacific Railway in Nebraska.

Adams county		May 1, 1888. .	125,000
Nuckolls Co	Beaver precinct	July 1, 1887. .	17,000
" "	City of Superior	" " " . .	13,000

Omaha Southern railway.

Cass county	City of Plattsmouth	Jan. 1, 1890. .	10,000

2057 EXHIBIT "21."

Report of the Secretaries.

To Messrs. Benton, Hill, Hastings, Allen, and Humphrey, members of the board of transportation.

GENTLEMEN: Pursuant to a resolution of your board directing the secretaries to prepare a statement of facts in the matter of transportation rates in this State we respectfully submit the following:

In order that you, and through you the people of the State, may have a more comprehensive view of the whole controversy on the question of freight rates between the people and the railroads of the State we call your attention:

First. To a brief history of the controversy from its earliest beginning, showing the situation as it was, up to the time when the present members of the board went into office.

Second. To such facts, figures, and arguments as we have been able to gather from both sides, to the controversy at the recent public investigation held by this present board, and to other facts ascertained by the secretaries prior to and since the recent public investigations.

The present controversy between the people and the railroads of this State originally grew out of the question, not of rates or reduction of rates, but of control. The people, recognizing the railroads as common carriers, not entitled under the State constitution to the same broad liberty of action in business that the individual citizen has, wanted to control the roads. The roads, impatient of interference, wanted to control themselves and manage their business in their own way. The roads were aggressive in business matters. They crowded the rapid development of their systems in all directions throughout the State with an energy never before equaled in history. Had they been less energetic and less forceful in the early settlement of the State there would have been less progress and less material development. Not only were the railroads energetic and forceful, but they were arrogant and overbearing in their methods. By the very force of their splendid energy they were natural usurpers of power, and the individual citizen stood in awe of a magnificent combination of capital, brains, and energy that
2058 had no conscience and no soul. To protect himself against its aggressiveness his first instinct was to pass laws that would curtail its legal rights. To prevent the passage of such laws was the natural instinct of the roads. The citizen at once appealed to public sentiment with a view of securing the passage of such laws as he deemed necessary to check this growing railroad power. Had the railroad people at this point calmly considered, yielding to the passage of such laws, for general control, as the people under the constitution were entitled to, submitting to control rather than

seeking to control, they would have secured popular sympathy
stead of arousing popular distrust. And had the citizen purs
the even tenor of his way, holding fast for what was his by ri
moving forward in the line of his own good common sense, av
ing rather than seeking a quarrel with the railroads, electing c
honest men to the legislature, he would have secured earlier in
struggle the legal control and the legal remedies which he sou
for, and, preserving his even temper and cool judgment, he wo
have been able to recognize justice when he found it, and to kn
when he had gone far enough. When the public will is moved
judgment, and not by prejudice, there is always inherent in
popular heart a love of justice and fair play; but when baffled
tricks and bullied by unlawful assumption of power, the pu
will becomes perverted and moves by caprice and not by reas
At such times the professional agitator finds public sentiment
easy prey to his mischievous doctrines.

Never in history has a better opportunity been given to aro
popular prejudice than was given by the railroad managers in t
State in the earlier stages of this controversy. As the anti-railr
sentiment grew and became threatening in its attitude, railr
manipulation became less scrupulous; and the louder the clam
for railroad legislation and railroad control, the more the railro
refused to yield to the reasonable demands, and the more th
sought through political intrigue to defeat the popular will.

It seems strange that a community of producers of more th
average intelligence, and a community of railroad managers a
builders, having so much at stake of mutual interest, should all
a dangerous feud to grow up between them.

In the dispute as it originally began there is no doubt the r
roads were in the wrong. They were stubborn and unyielding a
time when they should have been satisfied to live and let li
2059 The people asked only what was reasonable, and what w
guaranteed to them under the State constitution. For ma
years the roads were able, through their political power, to defe
legislation. They were the stronger of the two in the contest. Th
were the only capitalists in the State and were rich. The produce
were few in number and were poor. The railroads had plenty
money, and they spent it lavishly in the construction of new lin
They were powerful in politics, and were aggressive and arroga
in their manipulations of men and measures to accomplish the
purposes. Their overmastering influence in the State aggravat
the temper of the people and banded them still more closely togeth
in a still stronger anti-railroad sentiment. At length, in 1881, can
the first victory for the people, in the form of an act by the legisl
ture fixing a maximum rate. It was not a reduction of rates, but
fixing of a definite limit, above which the rate tariff might not g
This rate was taken from the lowest published schedule of rates the
in force. In this the people had gained one point, that of contro
No sooner had this law been enacted granting control over rates tha

the people began to demand more control. They demanded a court that should have general supervision over the roads, with power to judge and decide questions in dispute, before whom they might bring specific complaints and have them promptly and fairly adjusted. In obedience to this popular demand a railroad commission was created in 1885. This was the second victory for the people.

No sooner had the commission been created than it became unpopular. The people had now gone beyond the question of general control, and the fixing of a maximum rate, to the question of reduction of rates, and the commission had no power to reduce. The cry was raised to abolish the commission, and create in its stead a new court which should have still greater authority as to general control, and which should be vested with power to reduce rates. Again the people were victorious, and the law-makers of 1887, composed largely of farmers, created the board of transportation. This board, as now constituted, consisted of eight members, five of whom were elected by direct vote of the people, and exercised controlling power in the official acts of the board.

This law was a practical embodiment of the national law creating the Interstate Commerce Commission. It was urged by those who demanded this new court that a majority of its members, being elected by direct vote of the people, and owing allegiance alone to the citizen who cast the ballot, the power to fix rates of transportation would be under the direct surveillance of the producer, the only check on his individual judgment being the individual will and the individual judgment of the officials whose authority his vote had created.

2060

The producing classes of the State had at length prevailed, after much agitation, much engendering of bad feeling, and much loss of confidence of both parties in each other. So far as legal advantage was concerned, the public will had asserted itself and the producer commanded the situation.

The only question yet to solve was as to what extent rates should be reduced. Here the struggle shifted from the people in general against the roads to the board of transportation against the roads.

The result of this contest between the board of transportation and the railroads was a general average reduction on local and through rates of 33⅓ per cent. This was the most sweeping and far-reaching reduction ever accomplished by any board of railroad commissioners in the United States. It not only affected the local rates over which the board had absolute control, but interstate rates over which the board had no control, and that were of greatest importance. In this attack the board of transportation was so vigorous, and their demand was crowded with such determination and force, that the roads were compelled to make great concessions on the interstate rates. And when these concessions were made it was tacitly understood and agreed between the board and the roads that the local rates should not again be disturbed until such time as the local interchange of business in this State should be of more

general importance to the people than it was then. In order that you may more fully comprehend what was involved in the issue between the board and the roads at this time you should bear in mind that a reduction of the local rates in Nebraska meant to the roads a general corresponding reduction of the local rates in Kansas, Colorado, Wyoming, Montana, Utah, Idaho, Nevada, Oregon, and Washington. The board saw this point as clearly as the roads did. The Nebraska board of transportation had indirect power to cause a reduction in all these other Western States, where there were no boards of control.

The board used their power over local rates to extort from the roads broad and liberal concessions on interstate through rates, which was the vital question to Nebraska producers.

2061 So swift had been the progress of the anti-railroad sentiment in this State, and so fierce had it become in its demands, it stopped not to recognize what the board had done, but passed on from the demand for reduction to the demand for more reduction.

In the trial that took place in the summer of 1887 the roads resisted reduction with great force and determination. They fought most determinedly every inch of ground from beginning to end. The board being composed in part of men of high legal standing, being assisted by a "rate expert" of recognized ability, investigation was most thorough and complete.

In view of the fact that the board secured this sweeping reduction, and has since that time made still further reductions, it would seem that as a rate-reducer it had fairly earned from the producers of the State some slight gratitude, if not respect; and it would seem that, after having brought the railroad power to terms, the anti-railroad sentiment should have been, for a while at least, reasonably satisfied. The scene had now changed since the earlier part of the struggle. The roads have expended their money in the building of new lines that were unprofitable. They were obliged to exercise the strictest economy in order to make even a small dividend. The C., B. & Q. railroad lost in the strike of 1883 $3,000,000, which, together with the reduction of rates, caused their stock to decline 50 cents on the dollar. Hard times was staring them in the face. In the meantime farmers in the State had prospered.

We have shown to you how this controversy first started, over the question of control. How in 1881 a maximum rate was fixed, which was control. How the people then demanded more control, and how in 1885 the commission was created for more control. How the people then demanded still more control, and reduction of rates. How in 1887 the commission was abolished and the board of transportation created, which had not only power to exercise still more control, but to reduce rates, and which actually did, in the contest with the Elkhorn road, cause a reduction of 33⅓ per cent., supplementing this reduction with still further reduction on coal and grain. How the railroad power of this State had been rebuked for its audacity, punished for its rapacity, and yet the agita-

on was not one whit cooled in its fury, but grew in force and vio-
nce and called louder than ever for still more reduction. Again
ne second newly elected board of transportation took up the ques-
tion and called a meeting for still further investigation.

062 The board saw no way of arriving at the facts only by in-
vestigation. The question then pending before the board
hen the present members came into office in the earlier part of the
ear was "still more reduction." Recognizing its duty as a court
render judgment according to facts and according to justice, it at
nce set about to ascertain facts.

On the 13th of August this board sat at Lincoln, as per previous
nouncement, to take evidence and hear argument. It is worthy
note that no person appeared at that or any subsequent meeting
the board who advocated the lowering of the rates of the prod-
cts of our farms to our markets. But at the Lincoln meeting it
as urged upon the board t[illegible] the short-haul rates be modified,
ith no complaint whatever to rates as now fixed on grain, live
ock, or coal.

It is also worthy of special notice that the gentleman making this
gument made no effort to show that the rates on our out shipments
Nebraska farm products were unreasonably high, his argument
ing confined to a criticism of the Nebraska distance tariff. He
arged that the rates in this State were founded on what is known
the long-haul theory; he said:

"The purposes for which the rates are fixed are as follows:

"First, to protect the existence, under the rule of charging all the
affic will bear, of such internal industries of the State as produce
ticles for a distant market such as corn, oats, and packing-house
oducts upon which they can collect freight charges for a long
ul.

"Second, to prevent and prohibit as far as possible such internal
dustries of the State as might supply the home markets of the
ate with those commodities which the road is now hauling into
e State from long distances at high freight rates."

He also claimed: "That the local distance tariff of the C., B. &
was formulated with this second purpose in view." He claimed
e freight most used by the people is that shipped under the rates
fourth and fifth class. The rates on the fourth and fifth class
ight, are those, therefore, which are of the most importance to the
ople, yet it is on fourth and fifth class freight that we meet with
e greatest discrimination under the local distance tariff in Ne-
aska, a discrimination operating against the local shippers and in
or of the shippers living in cities far distant from the State. This
crimination against the shippers in interior Nebraska results
m the disproportion existing between the low through rates to
the State, and the high local rates in the State.

63 It must occur at once to any ordinary man that a low rate
for the long haul is the very life of Nebraska.

If the principal business of the people of the State was to ex-

change commodities among each other, from town to town, on short hauls within the State, then they would want rates based on the short-haul theory. But if the principal business of the people of the State is to raise grain and stock for a far-away eastern market, and to import building material and family supplies for a far-away eastern market, then the low rate on the long haul is absolutely vital to their interests.

The producer in Nebraska is interested in rates only on such articles as he buys and sells. It makes no difference to him what the rate is on hoop poles if he never buys or sells hoop poles. He is interested only in the freight he pays, either as buyer or seller. Admitting, for the sake of argument, that he pays the freight both ways, both on what he buys and what he sells, he then pays both the long-haul and short-haul freight, and to determine which of the two hauls he would have the rate based on he must first ascertain which haul he uses most. If the shipments of these articles which he buys and sells are mostly long-haul shipments, then he wants the rates favorable to the long-haul theory; but if the shipments are mostly short-haul shipments, then he wants the rates based on the short-haul theory.

Let us take an average Nebraska farmer, and see whether the tonnage on which he pays freight is handled mostly on the long or short haul. The average Nebraska farmer ships or receives in one year 2,000 bushels, or 120,000 pounds, of grain; 40,000 pounds of live stock; 20,000 pounds of coal, salt, lumber, etc.; 500 pounds of groceries; 1,500 pounds of miscellaneous articles; making in all a total of 200,000 pounds, on which he pays freight either as a buyer or seller. Not over 500 pounds, or one-quarter of 1 per cent. of this, is handled on the local distributing rate.

Would the farmer who pays freight on 300 pounds of sugar and two car-loads of fat steers prefer to have the rates adjusted in favor of the sugar rather than the steers? Or, if he sells a fat hog and purchases a paper of pins, will he complain that in the adjustment of freight rates, discrimination is made in favor of the hog and against the pins?

The principal transactions of our people in Nebraska do not consist in buying, but in selling. We are producers rather than consumers. Our present prosperity was not attained by purchasing groceries but in the selling of cattle, hogs, and grain.

2064

The future wealth of our farmers depends not on the price of what they buy in the stores of their nearest town, but on the price of what they sell to eastern markets. And yet men appear before this board and appeal to the farmers through the press, criticising the long-haul theory on which our rates are based, because they say it discriminates in favor of the long-haul shipments of our grain and live stock, rather than on the local distribution of groceries. They say this present system tends to build up the producer of our farm products rather than the man who sells sugar and coffee, and they point to a list of 600 articles of merchandise which they say

are discriminated against for the benefit of the Nebraska steer. If it could be shown that the list embraced six hundred times six hundred articles, it would still be true that the short-haul freight paid by an ordinary farmer in one year's purchase of these articles would not amount to as much as the freight on one fat steer from here to Chicago. And so long as the Nebraska steer continues to be of so much importance in the business transactions of this State, in the adjustment of our freight rates, it seems meet and proper that the interest of our steer should stand paramount. Bear in mind always, that of all the freight paid on all the articles bought and sold in a whole year's transaction of our ordinary farmer, the short-haul freight is only one-quarter of 1 per cent. Less than 1 per cent. of all the tonnage of Nebraska roads is included in agricultural implements and merchandise shipped locally. The principal items of commerce in the State are grain, coal, lumber, live stock, and meat products; they being 70 per cent. of all the commerce of the State. Less than 1 per cent. of grain, coal, and lumber is local business, because we have no forests or mines, and small local demand for grain shipped by rail.

An agitator may stand before an audiance of people and set them wild with excitement, or he may appeal through the press and raise an army of 70,000 voters by quoting technical instances in which the local rates on these articles seem disproportioned to the long-haul rate; but when these 70,000 men stop to consider that less than 1 per cent. of coal, grain, and lumber is local business, the argument falls to the ground, and the agitator only proves how mischievous a man can be when he talks with the purpose to deceive. Now it may be asked if the distributing rate is so little used by the people of the State, to reduce it would not seriously affect the income of the roads, why not reduce it and silence the popular clamor? It is easily explained why a reduction of this tariff in Nebraska, although it is little used by the ordinary farmer, might seriously affect those Nebraska railroads which have extended their lines into States west of us. It is plain to any man that, as we approach the West, where the country is more sparsely settled, and the tonnage is lighter, higher rates must prevail, in proportion to the decrease of business. Nebraska doing a much less business on the distributing rate, must have a higher rate than Iowa; and Colorado and Wyoming and other Western States must stand a still higher rate than Nebraska, and the tariff should be so arranged that the proportion in advance of rates shall be consistent with the decrease of business in each State. If the Nebraska distributary rate is put on a plane with that of Iowa, the discrepancy between the Nebraska rates and the States west of us would then be so great, and immediately the demand would come from those States for a reduction consistent with the Nebraska rates, and such reduction would be a serious matter in its effects on the revenues of the roads in those States, where the conditions are dissimilar to theirs, and where the distributary rate is more in use. Will the Ne-

braska farmer insist that for the sake of the reduction of one-quarter of 1 per cent. of his freight bills he will jeopardize our present low through rate to the eastern market? But it is also urged that our local distance rate in Nebraska should be put on a par with that of Iowa. In considering that question the one point vital to the farming interests of Nebraska is whether our stock and grain can be shipped from the interior of the State to Omaha and Lincoln on the local distance tariff, and from thence to Chicago and St. Louis, and whether, when these products reach Chicago and St. Louis, they have paid per mile in proportion to the distance traveled more than the same products would have paid had they started in Iowa instead of Nebraska. When a Nebraska steer reaches Chicago in the form of dressed meat, the question with him is not what it costs him to travel through Nebraska or Iowa or Illinois, but what he paid for the whole trip, and whether a proportionate reduction has been made in accordance with the distance traveled. If he has traveled twice as far as the Iowa steer, then he should have paid, not twice as much, but less than twice as much as the Iowa steer. For the purpose of ascertaining whether in the adjustment of rates the Nebraska steer is being fairly treated in comparison with the Iowa steer, let us take one of each, follow him to Chicago,
2066 and see how they stand in relation to cost of transportation.

Take a Nebraska steer at Hemingford, Nebraska; ship him to Omaha under the Nebraska tariff, which is 22.8 per hundred pounds; kill him and ship the dressed meat to Chicago at 22 cents per hundred pounds. He has traveled 931 miles and has paid 44.8 per hundred pounds. Now take an Iowa steer and haul him alive the same distance over a "C" road at Iowa local rates, 31 cents per hundred pounds; kill him at the Cedar Rapids packing-house, and ship the dressed meat to Chicago at 17 cents per hundred pounds. He has now traveled 650 miles and has paid 48 cents per hundred pounds. The Nebraska steer travels 931 miles and pays 44 cents per hundred pounds. The Iowa steer travels 650 miles and pays 48 cents per hundred pounds. Forty-eight cents for 650 miles as against 44 cents for 931 miles. The Nebraska steer has traveled once and one-half the distance of the Iowa steer at an actual less cost. Take a Nebraska steer at Funk, Nebraska; ship him to Omaha, 200 miles in a thirty-six-foot car, at 14.5 cents per hundred pounds; now add rate on product to Chicago from Omaha, 22 cents, and your Phelps County steer is in Chicago, a distance of 700 miles, at 36.5 cents per 100 pounds. Take an Iowa steer and ship him from a point 200 miles west of Cedar Rapids over an "A" road at 15.5 cents per 100 pounds; add rate on product from Cedar Rapids to Chicago 17 cents, and your Iowa steer has paid 32.5 per 100 pounds on a distance of 419 miles. The Phelps county, Nebraska, steer pays only 4 cents per 100 pounds more to reach Chicago than the Iowa steer, and yet he travels nearly twice the distance.

Now take a Nebraska steer at Mason, in Custer county, Nebraska; ship him to Omaha 200 miles over what would be a "C" road, at

2 cents per 100 pounds; add rate on product from Omaha to cago, 22 cents, and the Custer County steer stands charged with 2 cents per 100 pounds, and has traveled 700 miles. Take your a steer over a "C" class road 200 miles, at 20.17 cents per 100 nds, from Cedar Rapids, add 17 cents on product to Chicago, the Iowa steer stands charged with 37.17 cents per 100 pounds a ride of 419 miles. The Nebraska steer has traveled 700 miles gainst 419 miles for the Iowa steer, and paid only $\frac{8}{10}$ of one cent 100 more.

n all ages of the world's history since commerce was first insti- d among men there have been opportunities by the skillful use of figures in proving to the poor man that he is being abused by the rich man and in proving to the individual that the corporation is his natural enemy, but never was a subject e capable of being twisted with mischievous effect by the skill- ıse of figures and the singling out of technicalities than the sub- of transportation.

discussing freight rates a man in Adams county might say: lemen, you are corn-raisers. I wish to show you wherein you aying extortionate rates on corn. He then points out that the on corn from Hastings to Sutton, 25 miles, is 5 cents per 100 ds, while the rate from Omaha to Chicago is only 19 cents per pounds, the distance being 500 miles, or twenty times as far. hows how this discrimination in local corn rates keeps the er poor, and wishes to have it so adjusted that the corn rate een Hastings and Sutton shall be as low proportionately as that een Omaha and Chicago. In telling only half of the truth he leceived the Adams County corn-raiser in a most mischievous ner. In the first place the Adams County farmer has no occa- to ship corn from Hastings to Sutton. If the conditions were in this State that we consumed all our own products here in tate, shipping it from one town to the other on the short haul, f we had forests for our own lumber and mines for our own ınd salt; if we exported nothing to a far-distant market and rted nothing from a far-distant market; if our commerce as a consisted, in the main, in an exchange of commodities among other, then we would want the rates adjusted so as to favor the haul, and discriminate against the long haul. Not only l the Adams County farmer want a low corn rate from Hast- o Sutton, but he would want the through rates between Illi- ınd Nebraska as high as possible, to prevent the Illinois farmer sending his farm products into Nebraska to compete in the ıska market with the Nebraska product. If the farmers in is could have their will in the adjustment of Nebraska rates, would so adjust it as to make the long-haul rate between ıska and Chicago so high that it would practically exclude ıska grain and stock from the Chicago market.

e Adams County farmer is not engaged in selling corn in the n market, but in the Chicago market, and the price he receives

for his grain is the price in Chicago, less the price it costs to get it there. In reckoning this cost it is not material what rate the corn pays as it travels between Hastings and Sutton, or between Hastings and Omaha, or what it pays while passing through Iowa or Illinois, but whether, when it has reached Chicago, it has traveled on a through rate for the whole distance, consistent with the through rate for the whole distance paid by Iowa and Kansas corn, with which it must compete in the Chicago market. The Adams County farmer cannot expect the railroads to annihilate distance.

2068 He cannot expect the produce of his farm, located in central Nebraska, to be laid down in Chicago at the same identical cost as that of the Iowa farmer who is several hundred miles nearer. He has, however, a right to demand that his product, when it comes in competition with the Iowa product in Chicago, *to* pay a lower rate per mile in proportion to the longer distance it has traveled.

By investigation we find that the discrimination is in favor of the Nebraska product as compared with the Iowa. Take an example. The rate on corn from Hastings to Chicago is 23 cents per 100 pounds. To reach Chicago it travels 626 miles and pays at the rate of $\frac{7}{10}$ of 1 cent per mile. From Murray, Iowa, to Chicago the corn rate is 17 cents per 100 pounds. The distance is 365 miles and the rate per ton per mile is 1 cent. The Nebraska corn travels at $\frac{7}{10}$ of 1 cent, while the Iowa corn pays 1 cent, per ton per mile.

Now let us take a Nebraska hog to Chicago and see whether the discrimination is against him and in favor of the Iowa hog. Take him from Republican City to Lincoln, alive, at 16 cents per 100 pounds. Take the product from Lincoln to Chicago at 25 cents per 100 pounds, and your Nebraska hog has paid 41 cents per 100 pounds to reach Chicago, 720 miles away, his freight being at the rate of 1.14 cents per ton per mile. Take the Iowa hog the same distance over a class "A" road, and from the packing-house at Cedar Rapids take the product to Chicago, and your Iowa hog has paid 31 cents per 100 pounds to reach Chicago, a distance of 400 miles, and has cost at the rate of 1.6 cents per ton per mile.

Take the question of coal rates. From Rich Hill, Mo., to Lincoln, Neb., the distance is 287 miles, and the rate is $1.15 per ton, or $\frac{4}{10}$ of 1 cent per mile per ton. The Iowa rate on an "A" road for 287 miles would be $1.22 per ton, or $\frac{45}{100}$ of 1 cent per ton per mile—a difference on a 287-mile haul in favor of Nebraska of 7 cents per ton. From the Muchakeroick mines the coal rate to Lincoln is $1.27 per ton, the distance being 370 miles. The Iowa rate on class "A" road for the same distance is $1.31 per ton, or 4 cents per ton in favor of Nebraska.

Now let us take a Nebraska farmer and put him into the market in St. Louis where he wants to sell corn in competition with the Missouri farmer. The Nebraska farmer pays on corn from Adams county to St. Louis 18 cents per 100 pounds on a distance of 580 miles. The Missouri farmer from Jackson county, Missouri, pays 14 cents per 100 pounds, a distance of only 285 miles. The Ne-

raska farmer has paid only 4 cents more per 100 pounds than the Missouri farmer, and has hauled his products over twice as far.

We have given you in the foregoing a brief history of the rate matter as we have found it, and from that history and from the evidence and reports on file in our office we beg leave to submit in conclusion the following findings of fact:

069 First. We find from the evidence and sworn statements and reports, on file in our office, and from personal inspection, that the railroads in this State could not be duplicated for a less sum than $30,000 per mile, taking into consideration their equipments and depot and terminal facilities.

Second. We find from the evidence and sworn reports heretofore filed in our office, that the railroads have, for the years of 1887, 1888, 1889, and 1890 made the following rate per cent. per annum upon what, in our estimation, upon a careful investigation, would be the lowest amount for which they could be duplicated or paralleled:

For the year ending June 30, 1887, the Chicago, Burlington & Quincy railroad had a total length of 1,781.77 miles.

Cost at $30,000 per mile	$53,453,100
Gross earnings	7,944,814
Operating expenses and taxes	3,811,400
Net earnings	4,133,414

Per cent. per annum, 7.7.

For the year ending June 30, 1887, the Missouri Pacific had a total length of 150 miles.

Cost at $30,000 per mile	$4,500,000
Gross earnings	166,867
Operating expenses and taxes	305,261

Deficit, $138,394.

For the year ending June 30, 1887, the Chicago, Kansas & Nebraska had a total length of 134.13 miles.

Cost at $30,000 per mile	$4,023,900
Gross earnings	38,862
Operating expenses and taxes	38,940

Deficit, $78.

For the year ending June 30, 1887, the Chicago, St. Paul, Minneapolis & Omaha railroad had a total length of 222.98 miles.

Cost at $30,000 per mile	$6,689,400
Gross earnings	681,869
Operating expenses and taxes	515,779
Net earnings	166,090

Per cent. per annum, .024.

For the year ending June 30, 1887, the Union Pacific system had a total length of 981.52 miles.

Cost at $30,000 per mile	$29,445,600
Gross earnings	6,129,490
Operating expenses and taxes	3,900,630
Net earnings	2,228,851

Per cent. per annum, .076.

2070 For the year ending June 30, 1887, the Fremont, Elkhorn & Missouri Valley railway had a total length of 717.79 miles.

Cost at $30,000 per mile	$21,533,700
Gross earnings	2,270,990
Operating expenses and taxes	1,184,209
Net earnings	1,086,781

Per cent. per annum, .05.

Total number of miles for the year ending June 30, 1887, 3,988.

Total cost of roads	$119,643,000
Total gross earnings	17,232,892
Total expenses and taxes	9,756,228
Total net earnings	7,476,664

Average per cent. for the year ending June 30, 1887, .062.

For the year ending June 30, 1888, the Chicago, Burlington & Quincy railroad had a total length of 2,115.64 miles.

Cost at $30,000 per mile	$63,469,200
Gross earnings	6,888,365
Operating expenses and taxes	4,895,168
Net earnings	1,993,196

Per cent. per annum, .031.

For the year ending June 30, 1888, the Missouri Pacific railway had a total length of 193 miles.

Cost at $30,000 per mile	$5,790,000
Gross earnings	526,982
Operating expenses and taxes	365,747
Net earnings	161,235

Per cent. per annum, .028.

For the year ending June 30, 1888, the Chicago, Kansas & Nebraska railroad had a total length of 141.50 miles.

Cost at $30,000 per mile	$4,245,000
Gross earnings	161,594
Operating expenses and taxes	222,326

Deficit, $60,731.

For the year ending June 30, 1888, the Chicago, St. Paul, Minneapolis & Omaha had a total length of 244.52 miles.

Cost at $30,000 per mile	$7,335,600
Gross earnings	702,243
Operating expenses and taxes	630,331
Net earnings	71,912
Per cent. per annum, .0098.	

For the year ending June 30, 1888, the Union Pacific system had a total length of 981.57 miles.

Cost at $30,000 per mile	$29,447,400
Gross earnings	7,029,775
071 Operating expenses and taxes	4,703,277
Net earnings	2,326,498
Per cent. per annum, .078.	

For the year ending June 30, 1888, the Fremont, Elkhorn & Missouri Valley railway had a total length of 953.52 miles.

Cost at $30,000 per mile	$28,605,600
Gross earnings	2,696,609
Operating expenses and taxes	1,682,965
Net earnings	1,013,643
Per cent. per annum, .035.	

Total number of miles for the year 1888, 4,629.75.

Total cost of roads at $30,000 per mile	$138,892,800
Total gross earnings	18,005,568
Total expenses and taxes	12,499,814
Total net earnings	5,505,753
Average per cent., .039.	

For the year ending June 30, 1889, the Chicago, Burlington & Quincy railroad had a total length of 2,121.26 miles.

Cost at $30,000 per mile	$63,637,800
Gross earnings	11,357,901
Operating expenses and taxes	7,504,717
Net earnings	3,853,184
Per cent. per annum, .06.	

For the year ending June 30, 1889, the Missouri Pacific railroad had a total length of 380 miles.

Cost at $30,000 per mile	$11,400,000
Gross earnings	1,505,601
Operating expenses and taxes	1,127,813
Net earnings	377,788
Per cent. per annum, .033.	

For the year ending June 30, 1889, the Chicago, Kansas & Nebraska railway had a total length of 141.50 miles.

Cost at $30,000 per mile	$4,245,000
Gross earnings	349,952
Operating expenses and taxes	278,453
Net earnings	71,499
Per cent. per annum, .016.	

For the year ending June 30, 1889, the Chicago, St. Paul, Minneapolis & Omaha railway had a total length of 240.18 miles.

Cost at $30,000 per mile	$7,205,400
Gross earnings	1,096,195
Operating expenses and taxes	704,335
Net earnings	391,860
Per cent. per annum, .054.	

2072 For the year ending June 30, 1889, the Union Pacific system had a total length of 1,176.20 miles.

Cost at $30,000 per mile	$35,286,000
Gross earnings	6,261,065
Operating expenses and taxes	3,923,797
Net earnings	2,337,268
Per cent. per annum, .066.	

For the year ending June 30, 1889, the Fremont, Elkhorn & Missouri Valley railway had a total length of 1,010.86 miles.

Cost at $30,000 per mile	$30,325,800
Gross earnings	2,509,783
Operating expenses and taxes	1,489,584
Net earnings	1,020,199
Per cent. per annum, .033.	

Total number of miles, 5,070.

Total cost, at $30,000 per mile	$152,100,000
Total gross earnings	23,074,497
Total expenses and taxes	15,028,699
Total net earnings	8,045,798
Average per cent., .052.	

For the year ending June 30, 1890, the Chicago, Burlington & Quincy railroad had a total length of 2,213.37 miles.

Cost at $30,000 per mile	$66,401,100
Gross earnings	7,944,142
Operating expenses and taxes	4,864,653
Net earnings	3,079,489
Per cent. per annum, .046.	

For the year ending June 30, 1890, the Chicago, Kansas & Nebraska railway had a total length of 141.28 miles.

Cost at $30,000 per mile	$4,238,400
Gross earnings	390,802
Operating expenses and taxes	294,525
Net earnings	96,277

Per cent. per annum, .021.

For the year ending June 30, 1890, the Chicago, St. Paul, Minneapolis & Omaha railway had a total length of 240.18 miles.

Cost at $30,000 per mile	$7,205,400
Gross earnings	1,170,322
Operating expenses and taxes	846,496
Net earnings	323,826

Per cent. per annum, .044.

For the year ending June 30, 1890, the Fremont, Elkhorn & Missouri Valley railway had a total length of 1,010.40 miles.

Cost at $30,000 per mile	$30,312,000
Gross earnings	2,585,348
2073 Operating expenses and taxes	1,764,591
Net earnings	820,757

Per cent. per annum, .027.

For the year ending June 30, 1890, the Kansas City, Wyandotte & Northwestern railway had a total length of 20.10 miles.

Cost at $30,000 per mile	$603,000
Gross earnings	49,096
Operating expenses and taxes	73,048

Deficit, $23,952.

For the year ending June 30, 1890, the Missouri Pacific in Nebraska had a total length of 322.22 miles.

Cost at $30,000 per mile	$9,666,600
Gross earnings	1,950,248
Operating expenses and taxes	1,401,736
Net earnings	548,512

Per cent. per annum, .056.

For the year ending June 30, 1890, the Union Pacific system had a total length of 1,188.92 miles.

Cost at $30,000 per mile	$35,667,600
Gross earnings	7,079,127
Operating expenses and taxes	4,798,207
Net earnings	2,280,920

Per cent. per annum, .063.

Total number of miles of road for 1890, 5,136.47.

Total cost of road	$154,0
Total gross earnings	21,1
Total expenses and taxes	14,0
Total net earnings	7,1

Average per cent., .046.

For the year ending June 30, 1891, the Fremont, Elkhorn souri Valley railway had a total length of 1,012.14 miles.

Cost at $30,000 per mile	$30,3
Gross earnings	2,9
Operating expenses and taxes	1,6
Net earnings	1,2

Per cent. per annum, .0416.

For the year from June 30, 1890, to July 31, 1891, the Ch Burlington & Missouri River railroad had a total length of 3, miles.

Cost at $30,000 per mile	$94,0
Gross earnings	4,5
Operating expenses and taxes	3,3
Net earnings	1,1

Per cent. per annum, .01264.

2074 In obtaining the net earnings of the railroads for the 1889 and 1890, we have been compelled to figure on a age basis. By that we mean taking the earnings of the road whole, and taking that proportion of the whole net earnings miles of the system in Nebraska bear to the entire mileage; manner of figuring makes the roads in Nebraska earn the amount per mile as in the States of Illinois, Iowa, Missouri any other States into which the system extends.

Third. We find that the local rates of Nebraska are as l those of other States similarly situated, and the following tab comparative local rates are conclusive evidence of these find (See Exhibit "A.")

EXHIBIT A.

Classes 1, 2, 3, 4, 5, *A*, *B*, *C*, *D*, *E*, *in Cents per Hundred Pounds.*

	1.	2.	3.	4.	5.	A.	B.	C.	D.	E.	Soft coal per ton.	Hard coal per ton.
25 miles:												
Nebraska	22	19	17	14	10	10	9	7	6	3.5	$0 60	$0 60
South Dakota	24	19	17	14	10	10	9	8	8	6	1 00	1 30
Kansas	22	19	17	14	10	10	9	7	6	4 5	90	1 17
Colorado	24	19	17	14	10	10	9	8	8	6	1 00	1 30
Wyoming	24	19	17	14	10	10	9	8	8	6	1 00	1 30
Missouri	25	20	16	13	11	11	9	8	7	5	65	97½
Minnesota	22	18	15	11	9	9	8	7	6	4		
Iowa—"A"	17	14.45	11.34	8.5	5.95	6	5.95	5.1	4.24	3.4	46	76
Iowa—"C"	22.1	18.79	14.74	11.05	7.73	7.8	7.73	6.63	5.57	4.42	60	98
100 miles:												
Nebraska	52	45	40	35	30	24	16	14	10	7	1 20	1 20
South Dakota	55	45	40	35	30	27	19	15	15	11.25	1 60	2 08
Kansas	52	44	38	31	27	24	16	14	10	7.5	1 50	1 95
Colorado	55	45	40	35	30	27	19	15	15	11.25	1 60	2 08
Wyoming	55	45	40	35	30	27	19	15	15	11.25	1 60	2 08
Missouri	46	36	27	21	17	17	15	13	11	9	1 00	1 50
Minnesota	40	32	27	20	16	16	14	12	10	8		
Iowa—"A"	24	20.4	16	12	8.4	9	8.4	7.2	6	4.8	1 00	1 36
Iowa—"C"	31.2	26.52	20.8	15.6	10.92	11.7	10.92	9.36	7.8	6.24	1 30	2 00
200 miles:												
Nebraska	74	66	59	47	42	35	27	23	17	10.5	1 80	1 80
South Dakota	72	61	47	36	29	29	25	21	18	14	2 45	3 18½
Kansas	73	65	58	46	41	34	26	22	16	12	2 45	3 18½
Colorado	72	61	47	36	29	29	25	22	18	14	2 45	3 18½
Wyoming	72	61	47	36	29	29	25	22	18	14	2 45	3 18½
Missouri	73	54	49	37	28.5	30.5	23.25	18.75	15.75	12.05	1 50	2 25
Minnesota	60	50	40	30	24	21	21	18	15	12		
Iowa—"A"	40	30.2	23	18.6	14.2	15.9	13	11.1	9.39	8	1 30	2 00
Iowa—"C"	52	39.26	29.9	24.18	18.46	25.67	16.9	14.43	12.05	10.4	1 69	2 60
300 miles:												
Nebraska	83	75	68	56	51	44	36	27	20	15	2 30	2 30
South Dakota	92	78	60	46	37	37	32	28	23	18		
Kansas	83	75	68	56	51	41	34	27	21	16	3 25	4 22
Colorado	92	78	60	46	37	37	32	28	21	16		
Wyoming	92	78	60	46	37	37	32	28	21	16		
Missouri	83	67	59	43.5	33 5	35.5	25.75	21.25	17.75	15	2 00	
Minnesota	75	63	50	38	30	30	26	23	19	15		
Iowa—"A"	56	40	30	25	20	22.5	17.5	15	12.5	11	1 50	2 40
Iowa—"C"	72.8	52	39	32.5	26	29.25	22.75	19.5	15.25	14.3	1 95	3 12

2075 *Classification of Iowa Roads.*

It will be noticed in the above table that we have given rates for "A" and "C" roads in Iowa. In explanation of this we will state that in Iowa the law has divided railroads in that State into three classes as follows: All roads whose gross earnings are $4,000 per mile or over are "A" roads. All roads whose gross earnings are not less than $3,000, and under $4,000 per mile, are "B" roads. All others are "C" roads. The schedule rates of Iowa are the rates for "A" roads. "B" roads are allowed to charge 15 per cent. and "C" roads 30 per cent. more than "A" roads. If Nebraska railroads were so classified they would be as follows: Burlington & Missouri River in Nebraska proper, from Plattsmouth to Kearney; Omaha & Southwestern; Atchison & Nebraska; all operated by the Chicago, Burlington & Quincy Railroad Company, and the Union Pacific Railway

trunk line, from Omaha to State line would be the only "A" And the Nebraska, Republican Valley, Omaha, and North roads, operated by the Chicago, Burlington & Quincy Railroa pany, and the St. Joseph & Grand Island, operated by the Pacific railroad, and the Missouri Pacific, and the Fremont, El & Missouri Valley railway, and the Sioux City & Pacific, op by the F., E. & M. V. railway, and the Chicago, St. Paul, apolis & Omaha railway would be " B " roads. And the Lin Northwestern, Nebraska & Colorado, Grand Island & Wy Central, Republican Valley & Southwestern, Lincoln & Black Oxford & Kansas, Republican Valley & Wyoming, and the Ch Nebraska & Kansas, being operated by the Chicago, Burling Quincy Railroad Company, and the Kansas City, Omaha & Re can Valley, operated by the Union Pacific Railway Compan the Chicago, Kansas & Nebraska, Kansas City & Beatrice, a cific railway in Nebraska, and Nebraska & Western would " C " roads, making five "A," eight " B," and fifteen " C " ro this State. "A," 479.46 miles; " B," 2,393.42 miles; " C," 2, miles.

Low Local Rates.

Fourth. We further find that the coal rates of Nebraska are than any other Western State, for proof of which we call yo tention to the above comparative tariff rates. Exhibit "A."

Fifth. We find that the rate on wheat shipped for millin poses in Nebraska compare- very favorably with the rate of as the following table will show:

2076 *Wheat for Milling.*

Miles.	States.	Rat cen hu
25	Iowa	
25	Nebraska	
50	Iowa	
50	Nebraska	
100	Iowa	
100	Nebraska	
200	Iowa	
200	Nebraska	1
300	Iowa	1
300	Nebraska	1
400	Iowa	1
400	Nebraska	1

Sixth. That the rate on live stock to the markets of Lincoln and Omaha are lower than the local distance rates and are more favorable to the producer than the rates of other States, and are as favorable as those of Iowa, as the following comparative table will show:

Cattle—Car-load.

Miles.	State.	Rate per car.	In cent-per cwt.
25	Iowa	.....	.0671
25	Nebraska	15.40	.0616
50	Iowa	.....	.0868
50	Nebraska	19.80	.1132
100	Iowa	.....	.80
100	Nebraska	29.70	.1188
200	Iowa	.....	.1553
200	Nebraska	38.50	.154
250	Iowa	.....	.1789
250	Nebraska	45.10	.1808
300	Iowa	.....	.2002
300	Nebraska	50.60	.2014

The cattle rates in Iowa are based on cents per hundred, and in Nebraska on dollars per car. Statistics show that in a thirty-six-foot car the average car-load is 25,000 pounds. Figuring on that basis the rate to market would be as above shown.

Local and Through Rates.

Seventh. We further find that it is of vital importance to protect in every way the producers in this State, and that in order to do so the lowest possible through rate on the farm product must be obtained and maintained. That the local rate, which means
2077 the rate between station and station, within the State, is of small significance as compared with the through rates, and is of no interest to the farmer, as everything he uses is shipped to distributive points, such as Omaha, Lincoln, Hastings, Beatrice, and Fremont on a through rate and then sent out over the State on what is known as distributive or jobbers' rates, which are much lower than the local rates now in force; and that all of his grain goes out of the State on a through rate, which at the present time is a far better rate than Iowa enjoys. As example, we cite the fact that at a recent sitting of the Interstate Commerce Commission at the city of Omaha the Iowa farmers made complaint to that body and produced absolute proof that this State has better market rates

for its products than Iowa. We cite the rate on corn from Creston, Ia., 396 miles from Chicago, as compared with rates from Venango, Neb., 872 miles from Chicago. Creston, 17 cents per hundred pounds for corn; and from Venango, 25 cents per hundred pounds; making 17 cents per hundred pounds for 396 miles' haul for the Iowa shipper and an additional 8 cents for an additional haul of 476 miles for the Nebraska producer.

Eighth. We further find that the railroads are not in a condition to stand, nor does their net earnings, figured on a basis of cost of $30,000 per mile and not what they claim they cost, justify any cut in local rates of this State at the present time; and further, that a reduction in the local rates in this State would increase the through rates to market for our grain and would be a blow at the industry of the State. This last finding is fully established by the fact that the board of transportation reduced the local rates on hard coal 60 per cent., and yet the price to the consumer was not lowered nor the price at the mines raised, which shows conclusively that the through rates must have been raised.

Recommendations.

In submitting this report we have presented the facts and figures as we find them from evidence obtainable, from sworn reports now on file in our office. And we would respectfully recommend that no action be taken that will in any way jeopardize the interests of the producers of Nebraska, but that all interests be protected in the fullest manner possible, as provided by the foregoing findings.

W. A. DILWORTH,
J. N. KOUNTZ,
J. W. JOHNSON,
Secretaries.

P. S.—In regard to the complaint of Charles H. Johnson, of Norfolk, we make no report at this time for the reason that it is a local matter concerning discrimination against the city of Norfolk and does not properly come in this report, but will be further attended to at once.

2078 *Findings of the Board.*

After a careful and quite thorough investigation of the question of freight rates in Nebraska, which has occupied much time, and has taken a wide range, the State board of transportation has arrived at the conclusion, that the rates now in force in this State cannot be generally reduced without doing violence to the business interests of the State, and at the same time injuring the shipping and producing classes.

We have come to this conclusion, not by taking the cost of construction and equipments nor the amount of stock and bonds issued

r mile, but by making out computations upon the basis of what would cost to duplicate the property at the present time.

It has been our endeavor to deal fairly and justly with the ques-on, and in arriving at a conclusion we have been governed only the evidence, statements, and facts produced for our considera-on.

A candid examination and comparison of the figures presented us in the unanimous report of the board of secretaries, in the inion of this board, fully justifies the conclusion reached; that a neral reduction of the rates, as now in force over the State, is not actica-l- at this time.

There may be, and probably are, cases existing where towns, cities d communities are being discriminated against unjustly by the mmon carriers. These matters the board will remedy whenever ch a case is brought to their attention.

The board is not unmindful of the fact that a large number of r citizens are earnestly and honestly demanding a general reduc-n of rates at our hands, and are of the opinion that, as a matter right, a sweeping reduction should be made. We ask only, at e hands of all such, a careful examination of the schedules pre-ted, which have been authenticated by the board of secretaries, d a candid judgment thereon.

Should conditions change so that railroad investments could be de to pay more than a fair percentage on actual values, then it uld be not only right but exceedingly fit, that a general reduc-n be made; nor would this board hesitate to so order and enforce ch an order with all the means at its command.

79 DEF'TS' EXHIBIT "24."

Ninth day, January 14, 1893.

Introduction of Bills.

The following bills were read the first time and ordered to a second ding:

By Mr. Newberry,

House roll No. 33.

House roll No. 33,

A bill for An act to regulate railroads, to classify rates, to fix reason-e maximum rates to be charged for the transportation of freights on each of the railroads in the State of Nebraska.

Tenth day, January 16, 1893.

Bills on Second Reading.

The following bills were read the second time and referred to the per committees:

H. R. No. 33; ref. to committee on railroads.
House roll No. 33,
A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska.

Thirty-seventh day, Feb[illegible]ary 21, 1893.

The com. on railroads made the following report:
Mr. Speaker, your committee on railroads, to whom was referred H. R. No. 33,
A bill for an act—
2080 House roll No. 33,
A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska,
Have had the same under consideration, and instruct me to report the bill back to the house, with the recommendation that it be passed as amended.

W. F. PORTER, *Chairman.*

Mr. Porter offered the following motion:
Mr. Speaker, I move that the report of the R. R. comm. with regard to house roll 33 be adopted and the amendments be printed immediately, and the chairman of the comm. on printing is hereby instructed to see that the printer carries out the instructions of this motion.

W. F. PORTER.

The motion prevailed.

Forty-second day, February 28, 1893.

Mr. Kruse moved that the house resolve itself into the committee of the whole house for the purpose of considering H. R. 33.
Mr. Porter asked that H. R. 33 be recommitted to the railroad com. for the purpose of correcting clerical errors.
The request was granted and the bill was recommitted.

Forty-fourth day, March 2, 1893.

The committee on railroads made the following report:
Mr. Speaker, your committee on railroads, to whom was referred H. R. 33,
A bill for an act—
2081 House roll No. 33;
A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska,

Have had the same under consideration, and instruct me to report bill back to the house with the recommendation that it be passed amended.

W. F. PORTER, *Chairman*,
Per E.

Report adopted and the bill placed on general file.

Forty-fifth day, March 3, 1893.

Mr. Felton moved that the house make special order at 2 o'clock afternoon to consider H. R. No. 33.

Afternoon Session.

Mr. Scott moved that the house resolve itself into the committee the whole house for the purpose of considering the special order R. No. 33.

Mr. Howe moved to amend, that we have a call of the house.

The motion prevailed, and Mr. Speaker directed the clerk to call roll, and there were present,

Roll-call:

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.
	Ames	1			Kessler	1	
	Barry	1			Keyes	1	
	Beal	1			Kloke	1	
	Brockman	1			Krick	1	
	Brown	1			Kruse	1	
	Burns	1			Kyner	1	
	Cain	1			Leidigh	1	
	Carpenter	1			Lingenfelter	1	
	Casper	1			Lockner	1	
	Colton	1			Luikart	#	
	Cooley	1			Lynch	1	
	Cornish	1			McCutchen	1	
	Crane				McKesson	1	
	Cross	1			McVey	1	
	Davies	1			Merrick	1	
	Dew	1			Nason	1	
	Dickerson	1			Nelson	1	
	Dimmick	1			Newberry	1	
	Dobson	1			Oakley	1	
	Eickhoff	1			Olson	1	
	Elder, absent #				Porter	1	
	Ellis	1			Rhea	1	
	Farnsworth	1			Rhodes	1	
	Felton	1			Ricketts	1	
	Ford	1			Riley	1	
	Fulton	1			Robinson	1	
	Gerdes	1			Ruggles	#	
	Gifford	1			Schappel	1	
	Goldsmith	1			Schelp	1	
	Goss (Douglas)	1			Schlotfeldt	1	
	Goss (Wayne)	1			Scott	1	
	Grammer	1			Sheridan	1	
	Griffith	1			Sinclair	1	
	Haller	1			Sisson	1	
	Harmon	1			Smith (Holt)	1	
	Henry	1			Smith (Johnson)	1	
	Higgins	1			Smith (Richardson)	1	
	Hinds	1			Soderman	1	
	Horst	1			Spencer	1	
	Howe	1			Stevens	1	
	Irwin	1			Suter	1	
	James	1			Sutton	1	
	Jenkins	1			Van Duyn	1	
	Jensen	1			Van Housen	1	
	Johnson (Hall)	1			Wardlaw	1	
	Johnson (York)	1			Watson	1	
	Johnston	1			Wilson	1	
	Kaup	1			Withnell	1	
	Keckley	1			Woods	1	
					Mr. Speaker	1	

Yeas, 95; nays, —.

2083 On motion of Mr. Howe, Mr. Luikart was excused on account of sickness.

Mr. Speaker directed the sergeant-at-arms to bring in Mr. Elder and Crane, the only absentees not excused.

Mr. Woods moved that further proceedings under the call of the house be dispensed with.

The motion did not prevail.

Mr. Howe moved that the absentee- brought in be brought before the bar of the house to explain their absence.

The sergeant-at-arms brought Mr. Elder and Mr. Crane before the bar of the house and Mr. Elder made an explanation.

Mr. Stevens moved that Mr. Elder be excused.

The motion prevailed.

Mr. Crane made an explanation,

And Mr. Crane was excused.

Mr. Howe moved that further proceedings under the call of the house be dispensed with.

The motion prevailed.

The question recurring on the motion of Mr. Scott, the house at 10 o'clock resolved itself into committee of the whole house for the purpose of considering the special order H. R. No. 33,

Mr. Scott in the chair.

Subsequently the committee arose and by its chairman made the following report:

Mr. Speaker, your committee of the whole have had under consideration house roll No. 33, a bill for an act—

House roll No. 33,

A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska. (A paper pasted on the journal here and torn 84 ; the piece remaining contains the following words: "Amend ne 229, sec. — "), and report the same back to the house with the ecommendation that — do pass as amended.

The question being upon that part of the report of the committee the whole relating to house roll No. 33,

Mr. Rhodes moved to amend the report of the committee as follows:

'Amend line 229, sec. 7, be striking out the words 'Any railroad rporation violating any of the provisions of this act shall ' and inting the following:

' That in case any common carrier subject to the provisions of s act shall do or cause to be done or permit to be done any act hibited or declared to be unlawful, or shall omit to do any act, tter, or thing in this act required to be done, such common car- shall ;"

Which was agreed to.

Mr. Soderman moved to adopt the report of the committee as ended, and that the bill be engrossed for a third reading.

Mr. Howe moved to amend, that the report of the committee of the whole house be not concurred in, and that the following be substituted for the bill H. R. No. 33, and demanded the ayes and nays.

I move as an amendment that the report of the committee be not adopted, but that the following be substituted for the report of the committee.

HOWE.

2085 *Amendment to House Roll No. 33.*

SEC. 1. That it shall be unlawful for any railroad or transportation company doing business in this State to charge for the transportation of the following-named articles, to wit: Live stock, grain, flour, potatoes, lumber, coal, cement, lime, barb wire, sand, stone, brick, farm machinery and salt more than eighty per cent. of the rates charged on said articles by the respective railroad or transportation companies in this State on the 1st day of January, 1893; provided that the rates charged on any articles not above enumerated shall in no case be greater than the rates in force January 1st 1893.

SEC. 2. It shall be the duty of the board of transportation of the State of Nebraska, immediately upon the taking effect of this act to prepare and furnish to each railroad or transportation company, doing business in this State a schedule of rates on the above-named articles in accordance with the provisions of this act.

SEC. 3. Whenever any railroad company or companys in this State shall in a proper action, show by competent testimony that the schedule of rates prescribed by this act are unjust and unreasonable, such railroad or railroads shall be exempt therefrom, as hereinafter provided. All such actions shall be brought before the supreme court in the name of the railroad company, or companies bringing the same, and against the State of Nebraska, and upon the hearing thereof, if the court shall become satisfied that the rates herein prescribed are unjust in so far as they relate to the railroad bringing the action, may issue their order directing the board of transportation to permit such railroad to raise its rates to any sum,

2086 in the discretion of the board, provided that in no case shall the rates so raised be fixed at a higher sum than that charged by such railroad on the 1st day of January, 1893. Whenever any railroad company in this State shall claim the benefit of the provisions of this section, it shall be the duty of such railroad company to show to the court all matters pertaining to the management thereof, and if it shall appear that said railroad company is operating branch lines of railroad in connection with its main line, and all included in one system, then, and in that case, it shall be the duty of the railroad company to show to the court upon which branch or branches or upon which portion of such system the schedule of rates prescribed in this act is unjust and unreason-

ble, and only such portions shall be exempted from the provisions hereof.

SEC. 4. It shall be the duty of the board of transportation to see hat this act is fully complied with by each and every railroad or ransportation company doing business in this State.

SEC. 5. Any officer, employé, or agent of any railroad or trans-ortation company in this State that shall take, receive or charge ny greater sum for the transportation of any of the articles above amed than is set forth in the schedule of the board of transporta-on above provided for shall, upon conviction thereof, be fined for ach and every offense in any sum not less than five hundred dol-rs nor more than five thousand dollars.

SEC. 6. All railroads or parts thereof which may be built in this tate within two years next after the passage of this act shall be xempt from the provisions thereof until December 31, 1897.

The roll being called upon the motion to adopt Mr. Howe's sub-itute,

Those voting in the affirmative were,

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.
	Ames		1		Kessler	26	
	Barry		2		Keyes	27	
	Beal		3		Kloke	28	
	Brockman	1			Krick		25
	Brown	2			Kruse		26
	Burns	3			Kyner	48	
	Cain	4			Leidigh		51
	Carpenter	5			Lingenfelter		27
	Casper		4		Lockner	29	
	Colton	6			Luikart		28
	Cooley	7			Lynch		29
	Cornish	8			McCutchen		30
	Crane	9			McKesson	30	
	Cross	10			McVey		31
	Davies	11			Merrick	31	
	Dew	12			Nason	32	
	Dickerson		5		Nelson		32
	Dimmick		6		Newberry		33
	Dobson		7		Oakley	33	
	Eickhoff		8		Olson		34
	Elder		9		Porter		35
	Ellis	13			Rhea	34	
	Farnsworth		10		Rhodes		36
	Felton		11		Ricketts	35	
	Ford		12		Riley		37
	Fulton		13		Robinson	36	
	Gerdes		14		Ruggles		38
	Gifford	14			Schappel	37	
	Goldsmith	15			Schelp		39
	Goss (Douglas)	16			Schlotfeldt		40
	Goss (Wayne)	17			Scott		41
	Grammer		15		Sheridan		42
	Griffith	18			Sinclair	38	
	Haller		16		Sisson	39	
	Harmon		17		Smith (Holt)		43
	Henry		18		Smith (Johnson)	40	
	Higgins		19		Smith (Richardson)		44
	Hinds	19			Soderman		45
	Horst		20		Spencer	41	
	Howe	20			Stevens		46
	Irwin		21		Suter		47
	James	21			Sutton	42	
	Jenkins	22			Van Duyn	43	
	Jensen	23			Van Housen		48
	Johnson (Hall)		22		Wardlaw	44	
	Johnson (York)	24			Watson	45	
	Johnston		23		Wilson	46	
	Kaup	25			Withnell	47	
	Keckley		24		Woods		49
					Mr. Speaker		50

Yeas, 48; nays, 51.

2088 The question recurring upon the original motion to adopt the report of the committee, the ayes and nays were *being* demanded. Those voting in the affirmative were,

Roll-call:

2089 *House Roll*, 1893.

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.	
	Ames	....	1		Kessler	24	....	
	Barry	1	....		Keyes	25	....	
	Beal	2	....		Kloke	....	19	
	Brockman	....	2		Krick	26	....	
	Brown	....	3		Kruse	27	....	
	Burns	....	4		Kyner	....	20	
	Cain	....	5		Leidigh	....	21	
	Carpenter	....	....	45	Lingenfelter	28	....	
	Casper	3	....		Lockner	....	22	
	Colton	53	....		Luikart	29	....	
	Cooley	....	....	39	Lynch	30	....	
	Cornish	....	6		McCutchen	31	....	
	Crane	....	7		McKesson	....	23	
	Cross	....	8		McVey	32	....	
	Davies	....	....	40	Merrick	....	24	
	Dew	....	9		Nason	....	....	44
	Dickerson	4	....		Nelson	33	....	
	Dimmick	5	....		Newberry	34	....	
	Dobson	6	....		Oakley	....	25	
	Eickhoff	7	....		Olson	35	....	
	Elder	8	....		Porter	36	....	
	Ellis	....	....	41	Rhea	....	26	
	Farnsworth	9	....		Rhodes	37	....	
	Farrell	....	....		Ricketts	....	27	
	Felton	10	....		Riley	38	....	
	Ford	11	....		Robinson	....	28	
	Fulton	12	....		Ruggles	39	....	
	Gerdes	13	....		Schappel	....	29	
	Gifford	....	....	46	Schelp	40	....	
	Goldsmith	....	10		Schlotfeldt	41	....	
	Goss (Douglas)	....	11		Scott	42	....	
	Goss (Wayne)	....	12		Sheridan	43	....	
	Grammer	14	....		Sinclair	....	30	
	Griffith	....	13		Sisson	44	....	
	Haller	15	....		Smith (Holt)	45	....	
	Harmon	16	....		Smith (Johnson)	....	31	
	Henry	17	....		Smith (Richardson)	46	....	
	Higgins	18	....		Soderman	47	....	
	Hinds	....	14		Spencer	....	32	
	Horst	19	....		Stevens	48	....	
	Howe	....	15		Suter	49	....	
	Irwin	20	....		Sutton	....	33	
	James	....	....	42	Van Duyn	....	34	
	Jenkins	....	16		Van Housen	50	....	
	Jensen	....	17		Wardlaw	....	35	
	Johnson (Hall)	21	....		Watson	....	36	
	Johnson (York)	....	18		Wilson	....	37	
	Johnston	22	....		Withnell	....	38	
	Kaup	....	....	43	Woods	51	....	
	Keckley	23	....		Mr. Speaker	52	....	

Yeas, 53; nays, 46.

2090 A majority having voted in favor of the adoption committee report, and the report was adopted.

Forty-sixth day, March 4, 1893.

Mr. Stevens asked unanimous consent that the name of Ne be stricken from H. R. No. 33, and moved that the name committee be substituted.

The motion prevailed.

Fiftieth day, part 1st, March 9, 1893.

The committee on enrolled and engrossed bills made the ing report:

HOUSE OF REPRESENTATIVES,
LINCOLN, NEBRASKA, *March* 9, 1

Mr. Speaker, your committee on engrossed and enrolled would respectfully report that we have carefully examined and pared H. R. No. 33,

A bill for An act to regulate railroads, to classify freights, reasonable maximum rates to be charged for the transportat freights upon each of the railroads in the State of Nebraska,

And find the same correctly engrossed, showing amendme made by committee of the whole M'ch 3d, '93.

H. F. RHODES, *Chairm*

Mr. Stevens moved that the order of business be suspended porarily, and that H. R. No. 33 be put upon its final passage.

Mr. Keckley moved a call of the house, and it was second the requisite number.

The speaker directed the clerk to call the roll, and there present,

Roll call:

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.
	Ames				Kessler	1	
	Barry	1			Keyes		
	Beal	1			Kloke	1	
	Brockman	1			Krick	1	
	Brown	1			Kruse	1	
	Burns	1			Kyner	1	
	Cain	1			Leidigh	1	
	Carpenter	1			Lingenfelter	1	
	Casper	Ex.			Lockner	1	
	Colton	1			Luikart	1	
	Cooley	1			Lynch	1	
	Cornish	1			McCutchen	1	
	Crane	1			McKesson	1	
	Cross	1			McVey	1	
	Davies	1			Merrick	1	
	Dew	1			Nason	1	
	Dickerson	1			Nelson	1	
	Dimmick	1			Newberry	1	
	Dobson	1			Oakley	1	
	Eickhoff	1			Olson	1	
	Elder	1			Porter	1	
	Ellis	1			Rhea	1	
	Farnsworth	1			Rhodes	1	
	Felton	1			Ricketts	1	
	Ford				Riley	1	
	Fulton	1			Robinson	1	
	Gerdes	1			Ruggles		
	Gifford	1			Schappel	1	
	Goldsmith	1			Schelp	1	
	Goss (Douglas)	1			Schlotfeldt	1	
	Goss (Wayne)	1			Scott	1	
	Grammer				Sheridan	1	
	Griffith	1			Sinclair	1	
	Haller	1			Sisson	1	
	Harmon	1			Smith (Holt)	1	
	Henry	1			Smith (Johnson)	1	
	Higgins	1			Smith (Richardson)	1	
	Hinds	1			Soderman	1	
	Horst	1			Spencer	1	
	Howe	1			Stevens	1	
	Irwin	1			Suter	1	
	James	1			Sutton		
	Jenkins	1			Van Duyn	1	
	Jensen	1			Van Housen	1	
	Johnson (Hall)	1			Wardlaw	1	
	Johnson (York)	1			Watson	1	
	Johnston	1			Wilson	1	
	Kaup	1			Withnell	1	
	Keckley	1			Woods		
					Mr. Speaker	1	

Yeas, 90; nays, 9; absent, —.

2092 Mr. Jenson moved that Mr. James be excused on a
of sickness.

The motion prevailed.

The speaker directed the sergeant-at-arms to bring in Mr. W
the only absentee.

During the call of the house Mr. Woods came in.

Mr. Scott moved that Mr. Woods be brought before the
the house to offer his excuse for being absent.

The sergeant-at-arms appeared before the bar of the hous
Mr. Woods and he gave his excuse, and Mr. Horst moved th
gentleman be excused for this offense.

The motion prevailed.

Mr. Jenson moved that further proceedings under call
house be dispensed with.

The motion prevailed.

The question recurring upon the original motion of suspe
the regular order and putting H. R. No. 33 *be put* upon its pa
the ayes and nays being demanded, *and* those voting in the af
tive were,

Roll-call:

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.
	Ames				Kessler	1	
	Barry	1			Keyes		1
	Beal	1			Kloke		1
	Brockman		1		Krick	1	
	Brown		1		Kruse	1	
	Burns		1		Kyner		1
	Cain		1		Leidigh		1
	Carpenter		1		Lingenfelter	1	
	Casper	1			Lockner		1
	Colton				Luikart	1	
	Cooley		1		Lynch	1	
	Cornish		1		McCutchen	1	
	Crane				McKesson		1
	Cross		1		McVey	1	
	Davies		1		Merrick		1
	Dew		1		Nason		1
	Dickerson	1			Nelson	1	
	Dimmick	1			Newberry	1	
	Dobson	1			Oakley		1
	Eickhoff	1			Olson	1	
	Elder	1			Porter	1	
	Ellis		1		Rhea		1
	Farnsworth	1			Rhodes	1	
	Felton	1			Ricketts		
	Ford	1			Riley	1	
	Fulton	1			Robinson		1
	Gerdes	1			Ruggles	1	
	Gifford		1		Schappel		1
	Goldsmith		1		Schelp	1	
	Goss (Douglas)		1		Schlotfeldt	1	
	Goss (Wayne)	1			Scott	1	
	Grammer				Sheridan	1	
	Griffith		1		Sinclair		1
	Haller	1			Sisson	1	
	Harmon	1			Smith (Holt)	1	
	Henry	1			Smith (Johnson)		1
	Higgins	1			Smith (Richardson)	1	
	Hinds		1		Soderman	1	
	Horst	1			Spencer		
	Howe		1		Stevens	1	
	Irwin	1			Suter	1	
	James				Sutton		
	Jenkins		1		Van Duyn		1
	Jensen		1		Van Housen	1	
	Johnson (Hall)	1			Wardlaw		1
	Johnson (York)		1		Watson		1
	Johnston	1			Wilson		1
	Kaup		1		Withnell		1
	Keckley	1			Woods	1	
					Mr. Speaker	1	
		24	21			27	20
		27	20				
		51	41				

Yeas, 51; nays, 41; absent and not v., 7.

2094 A majority having voted in the affirmative, the motion to suspend the regular order and take up H. R. No. 33 prevailed.

LINCOLN, NEB., 3, 9, 1893.

In explanation of my vote on this question, which is no, that on reliable information I do not believe the transportation lines of this State can afford a reduction of twenty per cent. in freight rates, which this bill claims to make.

W. N. NASON.

Mr. HOWE: I move that H. R. No. 33 be recommitted to the committee on railroads for correction of errors existing in the rates, as admitted by the chairman, and that it does not loose its place on the calendar.

HOWE.

Amendment.

And that the committee on engrossed and enrolled bills be ordered to report back house roll 33 to this house Saturday, 11th inst., at 10 a. m.

P. H. BARRY.

Mr. Sisson moved to amend by making it the special order for Monday, at 2 o'clock p. m.

Mr. Ricketts moved the previous question, and it was seconded by the requisite number.

The previous question prevailed.

The question recurring upon the amendment offered by Mr. Sisson, the ayes and nays being demanded, those voting in the affirmative were,

Roll-call:

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.	
	Ames				Kessler	24		
	Barry		1		Keyes	25		
	Beal	1			Kloke	26		
	Brockman	2			Krick		18	
	Brown	3			Kruse	27		
	Burns	4			Kyner	28		
	Cain	5			Leidigh	29		
	Carpenter	6			Lingenfelter		19	
	Casper		2		Lockner	30		
	Colton				Luikart	31		
	Cooley	7			Lynch		20	
	Cornish	8			McCutchen		21	
	Crane				McKesson	32		
	Cross			41	McVey		22	
	Davies	9			Merrick	33		
	Dew	10			Nason	34		
	Dickerson		3		Nelson	35		
	Dimmick		4		Newberry		23	
	Dobson		5		Oakley	36		
	Eickhoff		6		Olson		24	
	Elder	11			Porter			43
	Ellis	12			Rhea		25	
	Farnsworth	13			Rhodes		26	
	Felton	14			Ricketts	37		
	Ford				Riley		27	
	Fulton		7		Robinson	38		
	Gerdes		8		Ruggles		28	
	Gifford 48				Schappel			
	Goldsmith	15			Schelp		29	
	Goss (Douglas) 49				Schlotfeldt		30	
	Goss (Wayne)		9		Scott		31	
	Grammer				Sheridan		32	
	Griffith	16			Sinclair	39		
	Haller		10		Sisson	40		
	Harmon		11		Smith (Holt)		33	
	Henry		12		Smith (Johnson)	41		
	Higgins	17			Smith (Richardson)		34	
	Hinds	18			Soderman		35	
	Horst		13		Spencer		36	
	Howe 50				Stevens		37	
	Irwin		14		Suter		38	
	James	19			Sutton			
	Jenkins	20			Van Duyn	42		
	Jensen	21			Van Housen		39	
	Johnson (Hall)		15		Wardlaw	43		
	Johnson (York)	22			Watson	44		
	Johnston	23			Wilson	45		
	Kaup		16		Withnell	46		
	Keckley		17		Woods	47		
					Mr. Speaker		40	

Yeas, 51; nays, 43; absent, —.

096 A majority having voted in the affirmative, the amendment prevailed.

The question recurring upon the original motion, the ayes and nays being demanded, those voting in the affirmative were,

Roll-call:

2097 *House Roll*, 1893.

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.
	Ames				Kessler		1
	Barry		1		Keyes	1	
	Beal		1		Kloke		
	Brockman	1			Krick		1
	Brown	1			Kruse		1
	Burns	1			Kyner	1	
	Cain	1			Leidigh	1	
	Carpenter	1			Lingenfelter		1
	Casper		1		Lockner	1	
	Colton				Luikart		1
	Cooley		1		Lynch		1
	Cornish	1			McCutchen		1
	Crane				McKesson	1	
	Cross	1			McVey		1
	Davies	1			Merrick	1	
	Dew		1		Nason	1	
	Dickerson		1		Nelson		1
	Dimmick		1		Newbeary		1
	Dobson		1		Oakley	1	
	Eickhoff		1		Olson		1
	Elder		1		Porter		1
	Ellis	1			Rhea	1	
	Farnsworth	1			Rhodes		1
	Felton		1		Ricketts	1	
	Ford		1		Riley		1
	Fulton		1		Robinson	1	
	Gerdes		1		Ruggles		1
	Gifford	1			Schappel	1	
	Goldsmith	1			Schelp		1
	Goss (Douglas)	1			Schlotfeldt		1
	Goss (Wayne)		1		Scott		1
	Grammer				Sheridan		1
	Griffith	1			Sinclair	1	
	Haller		1		Sisson		1
	Harmon		1		Smith (Holt)		1
	Henry		1		Smith (Johnson)	1	
	Higgins		1		Smith (Richardson)		1
	Hinds	1			Soderman		1
	Horst		1		Spencer	1	
	Howe	1			Stevens		1
	Irwin		1		Suter		1
	James				Sutton		
	Jenkins	1			Van Duyn	1	
	Jensen	1			Van Housen		1
	Johnson (Hall)		1		Wardlaw	1	
	Johnson (York)		1		Watson	1	
	Johnston	1			Wilson	1	
	Kaup	1			Withnell	1	
	Keckley		1		Woods		1
					Mr. Speaker		1

Yeas, 40; nays, 52; absent, 7.

2098 A majority having voted in the negative, the motion to recommit di- not prevail.

Fiftieth day, part 2, March 10, 1893.

H. R. No. 33—

H. R. No. 33,

A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska,

Was read the third time.

This bill having been read at large on three different days, and the same, with all its amendments, having been printed,

The question being,

Shall the bill pass?

The roll was called, and

Those voting in the affirmative were—

Mr. Casper moved a call of the house, and it was seconded by the requisite number.

The speaker ordered the sergeant-at-arms to close the doors, and directed the clerk to call the roll, and there were present—

Mr. Schappel moved that Mr. Ricketts be excused.

Sixty-eight having voted in the affirmative, the motion prevailed.

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.
	Ames (ex.)				Kessler	1	
	Barry	1			Keyes	1	
	Beal	1			Kloke		
	Brockman	1			Krick	1	
	Brown	1			Kruse	1	
	Burns	1			Kyner	1	
	Cain	1			Leidigh	1	
	Carpenter	1			Lingenfelter	1	
	Casper	1			Lockner	1	
	Colton	1			Luikart	1	
	Cooley	1			Lynch	1	
	Cornish	1			McCutchen	1	
	Cran				McKesson	1	
	Cross	1			McVey	1	
	Davies	1			Merrick	1	
	Dew	1			Nason	1	
	Dickerson	1			Nelson	1	
	Dimmick	1			Newberry	1	
	Dobson	1			Oakley	1	
	Eickhoff	1			Olson	1	
	Elder	1			Porter	1	
	Ellis	1			Rhea		
	Farnsworth	1			Rhodes	1	
	Felton	1			Ricketts	Ex.	
	Ford	1			Riley	1	
	Fulton	1			Robinson	1	
	Gerdes	1			Ruggles	1	
	Gifford	1			Schappel	1	
	Goldsmith	1			Schelp	1	
	Goss (Douglas)				Schlotfeldt	1	
	Goss (Wayne)	1			Scott	1	
	Grammer	Ex.			Sheridan	1	
	Griffith	1			Sinclair	1	
	Haller	1			Sisson	1	
	Harmon	1			Smith (Holt)	1	
	Henry	1			Smith (Johnson)	1	
	Higgins	1			Smith (Richardson)	1	
	Hinds	1			Soderman	1	
	Horst	1			Spencer	1	
	Howe	1			Stevens	1	
	Irwin	1			Suter	1	
	James	Ex.			Sutton	1	
	Jenkins	1			Van Duyn	1	
	Jensen	1			Van Housen	1	
	Johnson (Hall)	1			Wardlaw	1	
	Johnson (York)	1			Watson	1	
	Johnston	1			Wilson	1	
	Kaup	1			Withnell	1	
	Keckley	1			Woods	1	
					Mr. Speaker	1	
		31				33	
		33					
	Yeas	63					

90; nays, —; absent, 9.

Mr. Casper moved that on account of sickness Mr. James be excused.

ıe motion prevailed.

r. Watson moved that Crane, Goss of Douglas, Kloke, and Rhea xcused.

ıe motion did not prevail.

r. Woods moved that further proceedings under call of the house ispensed with.

ıe motion did not prevail.

r. Barry moved that the absentees, Crane, Goss of Douglas, ke, and Rhea, be excused.

fty-three having voted in the affirmative, the motion prevailed.

r. Keckley moved that further proceedings under call of the e be dispensed with.

ıe motion prevailed.

ıe speaker directed the clerk to call the roll on house roll No. 33, those voting in the affirmative were,

ll-call :

Changes.	Names.	Yea.	Nay.	Changes.	Names.	Yea.	Nay.	
	Ames				Kessler	26		
	Barry	1			Keyes	63		
	Beal	2			Kloke			
	Brockman	56			Krick	27		
	Brown			25	Kruse	28		
	Burns		1		Kyner			28
	Cain	57			Leidigh		11	
	Carpenter		2		Lingenfelter	29		
	Casper	3			Lockner			29
	Colton	4			Luikart	30		
	Cooley		3		Lynch	31		
	Cornish			26	McCutchen	32		
	Crane				McKesson		12	
	Cross		4		McVey	33		
	Davies	58			Merrick		13	
	Dew		5		Nason		14	
	Dickerson	5			Nelson	34		
	Dimmick	6			Newberry	35		
	Dobson	7			Oakley			30
	Eickhoff	8			Olson	36		
	Elder	59			Porter	37		
	Ellis	60			Rhea		15	
	Farnsworth	9			Rhodes	38		
	Felton	10			Ricketts			
	Ford	11			Riley	39		
	Fulton	12			Robinson		16	
	Gerdes	13			Ruggles	40		
	Gifford	61			Schappel	41		
	Goldsmith		6		Schelp	42		
	Goss (Douglas)		7		Schlotfeldt	43		
	Goss (Wayne)	14			Scott	44		
	Grammer				Sheridan	45		
	Griffith			27	Sinclair		17	
	Haller	15			Sisson	46		
	Harmon	16			Smith (Holt)	47		
	Henry	17			Smith (Johnson)	48		
	Higgins	18			Smith (Richardson)	49		
	Hinds		8		Soderman	50		
	Horst	19			Spencer		18	
	Howe	62			Stevens	51		
	Irwin	20			Suter	52		
	James				Sutton		19	
	Jenkins		9		Van Duyn			20
	Jensen	21			Van Housen	53		
	Johnson (Hall)	22			Wardlaw		21	
	Johnson (York)	23			Watson		22	
	Johnston	24			Wilson		23	
	Kaup		10		Withnell		24	
	Keckley	25			Woods	54		
					Mr. Speaker	55		

Yeas, 63; nays, 30; absent and not v., 6.

2102 A constitutional majority having voted in favor of the passage of the bill, the bill passed, and the title as amended was agreed to.

Mr. Speaker, I move to amend the title by adding the following, "and to provide penalties for violations of this act."

RHODES.

The motion prevailed.

Explanation of Votes.

Mr. Speaker, believing that no legitimate business in this State can stand a reduction of twenty to forty per cent., as contemplated in H. R. 33, of its profits and live; and believing that the commodity reduction rate substituted by the Republicans of this house would render the farmers and builders of the western portion of the State all the relief any section could honestly ask for, the passage of any law as sweeping as this will cripple the building of railroads in Nebraska, thus not only delaying the development of this grand State and reducing the wages of thousands of men now employed on railroad work, but the building of roads would be a thing of the past; and believing that the farmer has no more right to demand an unreasonable reduction of the profits of the railroads than the consumer of farm products *have* to demand a reduction of twenty to twenty-five per cent. from the market price of farm produce to enable the consumer to live better at the expense of the farmer; and believing there should be a happy medium, whereby the farmer and railroad could both live without crippling either, the passage of this bill in its present form will stop railroad building in the State, throw thousands of workmen out of employment and reduce the wages of thousands more who cannot stand such reduction and live, and cause a general disruption of our business affairs, I therefore vote no.

JOSEPH BURNS.

2103 While I am in favor of a 20 % reduction in freight rates on the product of the farm and a few other commodities, I am not in favor of this bill, which reduces the rate on all articles from 30 % to 40 %; and, as I believe the senate will so amend as to meet my approval, I vote no.

G. J. CARPENTER.

Desiring a reasonable freight law, but believing the bill under consideration to — cumbersome and impracticable and, if enacted into law, liable to be a dangerous one, inasmuch as the committee having had it under consideration some two months are unable to agree as to its provisions, therefore I vote no.

CROSS.

Mr. Speaker, in explaining my vote I desire to say that the railroad question has been an issue in my county, and as I have

promised my people that if I was elected I would vote for a reduction of freight rates, and as I consider myself as a servant of the people, I therefore vote yes.

H. GERDES.

Mr. Speaker, having carefully examined the Newberry bill and comparing the reductions made in the rates in force January 1st, 1893, and finding that it makes an average reduction of from thirty to thirty-five per cent., and having favored and do favor the substitute bill offered which made a reduction of 20 % on car-load lots, I therefore vote no.

JENKINS.

2104 Mr. Speaker, in explanation of my vote I wish to say that I favor a short bill, as advocated by Mr. Rosewater, of the Bee, viz., a ten per cent. reduction or the substitute which was offered for the Newberry bill, although it was charged and intimated that the substitute would not reduce the rates to amount to anything. I find on investigation that it would make a reduction of not less than three thousand dollars per annum in our little town of about four hundred inhabitants. I find, further, that the actions of the commissioner of transportation have been misrepresented on this floor, viz., that they have not done anything to lower rates. It has beeo charged that the Republicans have promised to give the people R. R. legislation and have never done so. I find the reverse to be the case, viz., that the R. R. or transportation commission war created by the Republican party, and that said commissioners have reduced the freight rates to a great extent where it would do the most good to the Nebraska producer, and as I further believe that the senate will give me a chance to vote for a reasonable bill, as I think that the Newberry bill is not based on good business principles, I therefore vote no.

KAUP.

Upon the first reading of the bill Friday, March 10th, the fact was disclosed that this bill provides for the very unjust, unreasonable, and extortionate reduction of thirty-five to forty per cent. on the following-named commodities and 5th-class freight, mdse. and hogs, and, since the tariff on these classes are now very low, I vote no.

Further, this bill was never read on three separate days, as provided by the constitution, and was never considered in committee of the whole nor by the house, as other bills. No man upon the floor of this house can vote intelligently upon this measure.

J. C. F. McKESSON.

2105 Mr. Speaker, I desire to say in explanation of my vote that I am convinced by information from reliable sources that the reduction in freight rates as contemplated by H. R. 33 *are* excessive to an extent which must necessarily prove antagonistic to the best interests of the State by preventing needed R. R. exten-

sions and tend to diminish the good service now enjoyed by its citizens. I vote no.

W. N. NASON.

Mr. Speaker, I am in favor of a reasonable reduction of freight rates that would be fair to the railroads as well as to all others; and believing that the effects of this bill would be not only to decrease the local freights, — to increase their through rates on stock and grain, thus working an injury to the agricultural community, I therefore vote no.

C. S. ROBINSON.

Mr. Speaker, although this bill does not meet my approval in all respects, I am convinced that it is the only railroad bill that can pass this house this session, and as there is a popular demand for a reduction in freight rates I vote aye.

SISSON.

Mr. Speaker, whereas the Republican party have for the past eight or ten years promised to relieve the people from extortionate freight rates; and whereas all the politically parties of this State in the year 1890 promised the people to give them the Iowa maximum freight-rate law; and whereas this bill provides for a small reduction of only 20% from the present rate now in force, I therefore vote yes.

E. SODERMAN.

Mr. Speaker, inasmuch as this bill has not been read and considered in committee of the whole either by the committee or by this house and this house has had no chance to amend or discuss same, and knowing that the measure is manifestly unjust to a portion of the largest tax-payers of the State of Nebraska, and it being admitted by members on the floor of this house that there are errors in said bill, I cannot by my vote support a measure admitted by its friends to be unjust; I therefore vote no.

J. N. VAN DUYN.

House roll No. 33.

House roll No. 33.

Explanation of Vote.

Just what reduction of rates, if any, the railroads can stand I do not know. I believe the investigations necessary to *be* a wise bill of this character can only be made by persons who have the time and whose special duty it is to so investigate, and that the best results have been had through boards of transportation. The chairman of the R. R. committee has stated substantially that in framing this bill no consideration was paid to distributing centers. This is unjust. The companies have always been forced to treat fairly distributing centers. -he Interstate Commission have so decided the

interest of trade and commerce require that all the distributing centers be given equal show in competition for business. I believe that this bill will work disastrously to interior distributing points; I therefore vote no.

CORNISH.

2107 Mr. Speaker, having voted once upon a similar rate, believing this rate to be a less cut in the rates of two years ago, and after introducing a bill in this house that I believe to be a better bill for the people, but the working majority refused to take action; but notwithstanding all this I am pledged to vote for railroad legislation, and if the senate should pass this bill and it should be signed and become a law, that if it should work a disaster to the R. R. interests, that the people and the courts will adjust this question, I therefore vote I.

S. M. ELDER.

Mr. Speaker, being pledged to vote for a reduction of freight rates, I desire to say that this bill does not meet with my approval as it now stands, but, believing it's the only measure now possible to get before us, I voti I.

WILL. M. GIFFORD.

Mr. Speaker, in explanation of my vote I desire to state that after having carefully compared house roil 33 and its amendments with the rates now in force as agreed upon by the board of transportation and published by them in their official report, and finding that the reduction in many instances is from 25% to over 50%, and believing that such a reduction is not demanded nor desired by the people of Nebraska, and believing also that so great a reduction of rates would have indirectly a depressing effect upon the prosperity of our State, I therefore vote no.

GRIFFITH.

2108 I am in favor of a reasonable reduction in freight rates, but—Believing that should this bill become a law it would seriously cripple the railroads of this State and tend to discourage the further investments of capital in the building of new ones, and the result finally in very materially retarding the growth and development of our great State, I am opposed to its passage. I vote no.

JAMES H. KYNER.

Seventy-first day, April 5, 1893.

The following message was received from the senate by its secretary, H. A. Edwards:

LINCOLN, 4, 5, 1893.

Mr. Speaker, I am directed by the senate to inform your hon-
ble body that they have passed, with amendments, the fol-
ing:
House roll No. 33—
House roll No. 33,
bill for An act to regulate railroads, to classify rates, to fix rea-
able maximum rates to be charged for the transportation of
ghts upon each of the railroads in the State of Nebraska.
Your concurrence in the above is respectfully asked.

H. A. EDWARDS, *Secretary.*

Mr. Harmon was excused until Monday.

Mr. Newberry moved that the house concur in the following senate amendments to H. R. No. 33:

Amend line 229, page 20: Strike out 1½ and insert 2.

The motion was agreed to.

Mr. Newberry moved that the house concur in the following sen-
amendments to H. R. 33:

Substitute for Section Four.

ll railroads or parts thereof which have been built in this State
e the first day of January, 1889, or may be built before the 31st
of December, 1899, shall be exempt from the provisions of this
until the 31st day of December, 1899.

he motion prevails.

Mr. Porter moved that the house concur in the following senate
endments to H. R. No. 33:

mendment to the amendment of house roll No. 33, recom-
ded by the State railroad committee, in section three (3), from
one (1) to line six (6), inclusive: Amend to read as follows:

s. Miles.	1st class.	2d class.	3d class.	4th class.
5	13	11	9	7
10	15	12.5	10	7.4
15	16	14	10.5	8.5
20	16.5	14.5	11	9
25	17	15	11.7	9.5
30	18	15.5	12.2	10

he motion prevailed.

Mr. Porter moved that the following senate amendment to house
No. 33 be concurred in: That lines 149 to 265, inclusive, to the
amendments to house roll No. 33, recommended by the com-
mittee on railroads, amending section three (3), from line nine
(9) to line 227, inclusive, as printed and adopted, *to* be
nded to read as follows:

149	5	4	4	4	3
150	10	4	4	4	3
151	15	4½	4½	4½	3
152	20	5	5	5	3½
153	25	5	5	5	3½
154	30	5½	5½	5½	4
155	35	6	6	6	4½
156	40	6½	6½	6½	5
157	45	7	7	7	5½
158	50	7	7	7	5½
159	55	7	7	7	5½
160	60	7½	7	7	5½
161	65	8	7	7	5½
162	70	8½	7½	7½	6
163	75	9	8½	8	6
164	80	9½	8½	8	6½
165	85	10	8½	8	6½

Seventy-second day, April 6, 1895.

HOUSE OF REPRESENTATIVES,
LINCOLN, NEBRASKA, 4, 6, 1893.

Mr. Speaker, your committee on engrossed and enrolled bills would respectfully report that we have carefully examined and compared house roll No. 33,

A bill for an Act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and find the same correctly enrolled, including senate amendments.

HENRY F. RHODES, *Chairman.*

Mr. Speaker announced that he was about to sign H. R. No. 33 while the house was in session and capable of doing business.

2111 UNITED STATES OF AMERICA, }
State of Nebraska. }

Office of secretary of State.

STATE OF NEBRASKA, }
Office of Secretary of State. }

I, John C. Allen, secretary of state of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of that portion of the House Journal of 1893 regarding the passage of house roll No. 33, "A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act," with the original rolls on file in this office, and that the same is a true and perfect copy of said portion of House Journal.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln [SEAL.] this 4th day of April, in the year of our Lord one thousand eight hundred and ninety-four, of the Independence of the United States the one hundred and 18, and of this State the 28.

JOHN C. ALLEN,
Secretary of State.

2112 DEF'TS' EXHIBIT "25."

The Newberry Bill.

(House roll No. 33.)

An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act.

2113 CHAPTER 24.

(House roll No. 33.)

An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act.

Be it enacted by the legislature of the State of Nebraska:

Application of act.

SECTION 1. The provisions of this act shall apply, except as in this act otherwise provided, to all railroad corporations and railroad companies, and to any common carrier or carriers engaged in this State in the transportation of freight by railroad therein, and shall also be held to apply to shipments of property made from any point within the State to any other point within the State.

"Railroad" defined.

The term "railroad," as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation, receiver, trustee, or other person operating a railroad, whether owned or operated under contract, agreement, lease or otherwise, and the

"Transportation" defined.

term "transportation" shall include all instrumentalities of shipment or carriage, and

"Railroad corporation" defined.

the term "railroad corporation," contained in this act shall be deemed and taken to mean all corporations, companies, or individuals now owning or operating, or which may hereafter own or operate any railroad, in whole or in part, in this State, and the

provisions of this act, except as in this act otherwise provided, shall apply to all persons, firms, and companies, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers of freight upon any of the lines of railway in this State, the same as to railroad corporations herein mentioned.

Classification of freight.

SEC. 2. That all freight or property to be transported by any railroad company or companies mentioned in the preceding section from any point in the State of Nebraska to any other point in said State, shall be classified as hereinafter in this section provided, and any other or different classification of freight, which would raise the rates on class or commodity of freights above the rates prescribed in this act, except as hereinafter otherwise provided, is prohibited and declared to be unlawful. The classification established by this act shall be known as the "Nebraska classification." Freights shall be billed at the actual weight, unless otherwise directed in the classification. Twenty thousand pounds shall be a car-load and all excessive weights shall be at the same rate per hundred pounds except in car-loads of light and bulky articles and unless otherwise specified in this classification. When the classification makes an article "released" or "owner's risk" the same at carrier's risk will be the next rate higher, unless otherwise provided in the classification. Articles rated first class, "released" or owner's risk, if taken at "carrer's risk," will be 1½ times first class, unless otherwise provided in the classification. All articles carried according to this classification at "owner's risk" of fire, leakage, damage or breakage, must be so receipted for by agents, of the railroad, and so considered by owners and shippers. Signing a release contract by a shipper shall not release the railroad company for loss or damages caused by carelessness or negligence of its employés.

Freights billed at actual weight.

"Car-load."

"Owner's risk" and "carrier's risk."

Release contracts.

The Nebraska Classification—Explanation of Characters.

Explanation of characters.

The class is given opposite each article. 1, 2, 3, 4 and 5 stand for first, second, third, fourth and fifth classes respectively; 1½ for one and one-half first class, D 1 for double first class, 2½ for two and one-half times first class, 3 t 1 for three times first class, 4 t 1 for four times first class, O. R. for owner's risk, C. R. for carrier's risk, S. U. for set up, K. D. for knocked down, C. L. for car-load, L. C. L. for less than car-load, P. P. for prepaid, N. O. S. for not otherwise specified in this classification; classes A, B, C, D and E, refer to table of rates.

The figures or letter in the first column to the right of the various articles in the classification refer to less than car-load lots, and those in the second column refer to the rate in car-load lots.

A.	L. C. L.	C. L.
Advertising boards, in bundles	..	3
Advertising matter and almanacs boxed or in bundles, O. R., prepaid	1	3

Advertising matter (not to exceed 500 lbs.), O. R. released may be shipped with car-loads of articles advertised at the car-load rate of articles shipped.

Agricultural implements also parts of agricultural implements, returned to manufacturers for repairs, 2116 will be charged half tariff rates, when returned by same railroad or railroads as originally forwarded; when returned by other railroad or railroads than originally forwarded by full tariff rates will be charged.

Agricultural implements (not including hand implements), at O. R. of breaking and chafing	..	A
NOTE.—Any shipment of agricultural implements (except threshers, separators, clover-hullers or corn-shellers), requiring an entire car, will be charged the C. L. rate	..	A
In less than C. L., O. R., as follows:		
Agricultural implements, light and bulky:		
N. O. S.; set up	D 1	A
K. D. flat, in bundles	1	A
Binder trucks	1	A
Binding attachments for harvesting machines, boxed or crated	3	A
Bundle-carriers, in bundles	3	A
Check-rowers	1	A
Check-rower wire	3	A
Corn drills:		
Set up	1	A
K. D. in bundles	2	A
K. D. boxed or crated	3	A
Corn-harvesters	1	A
Corn-planters:		
Set up	D 1	A
K. D. flat in bundles	1	A
Cotton-picking machine, wheels on or off, other detachable parts removed	1	A

Agricultural implemen[illegible]—continued.

2117

	L. C. L.	C.
Cotton-planters:		
Set up	D 1	A
K. D. flat, in bundles	1	A
Cultivators, iron or wood:		
Set up	D 1	A
K. D. flat, in bundles	1	A
Dust-collectors and cockle-separators, actual weight	1½	A
Engines, farm, portable, minimum weight, 5,000 pounds each	1	A
Engines, traction, minimum weight 10,000 pounds each	3	A
Evaporators, sugar	1½	A
Fanning mills:		
Set up	D 1	A
K. D. flat in bundles	1	A
Feed and ensilage cutters:		
Set up	1	A
K. D.	3	A
Grain-heading machines, K. D., in pieces	3	A
Harrows, N. O. S.:		
Set up, with teeth	1½	A
K. D. and tied in bundles, teeth removed	2	A
Folded, rolled or *b*lat, teeth in but sharp points not exposed	2	A
Harrows, disc:		
Set up	1½	A
In sections, levers, irons and seats removed and tied in bundles	2	A
Harrow frames, without teeth, K. D. in bundles	3	A

2118

Harvesting machines, (self-binding harvesters):		
Set up	1	A
K. D.	3	A
Hay-carriers	2	A
Hay-carrier tracks, in bundles	3	A
Hay forks, (horse)	2	A
Hay or straw stackers or rickers, hay-loaders and sweep-rakes:		
Min. weight, 4,000 pounds	1	A
K. D., flat, tied in bundles, wheels racked actual weight	1	A

Agricultural implements—continued.

		L. C. L.	C. L.
	Hay-tedders:		
	N. O. S.	D 1	A
	K. D., flat and tied in bundles	1	A
	Hay racks, in bundles	2	A
	Horse powers	1	A
	Horse-tread powers, K. D.	3	A
	Horse rakes, wood or iron	1	A
	Manure and fertilizer spreaders:		
	Set up	1½	A
	K. D.	1	A
	Mills, cane, cider and cob, and combined corn and cob	2	A
	Mowers, N. O. S.:		
	Set up	1	A
	Wheels on or off, other detachable parts removed	3	A
	Mower-knife grinders:		
	Set up, boxed or crated	1	A
	K. D., boxed or crated	2	A
	Pea-hullers:		
	Set up, min. weight 5,000 lbs	1	A
2119	Taken apart and loaded in box car, actual weight	1	A
	Plows, N. O. S.:		
	Set up	1	A
	K. D., in bundles	2	A
	K. D., boxed or crated	3	A
	Plows, gang, shovel and sulky:		
	Set up	D 1	A
	K. D., flat and tied in bundles	3	A
	Plows, listing, riding:		
	Set up	D 1	A
	K. D., flat and tied in bundles	3	A
	Plows, listing and walking:		
	Set up	1	A
	K. D., in bundles	2	A
	K. D., boxed or crated	3	A
	Potato-diggers:		
	Set up	D 1	A
	K. D., in bundles	1	A
	Potato-planters, taken apart, dismounted, small parts tied in bundles	1	A
	Presses, hay:		
	Set up	D 1	A
	Detachable parts removed	3	A
	Presses, hay, and hay bale ties, wire	..	A

Agricultural implements—continued.

	L. C. L.	C. L
Rakes, sulky, horse:		
Set up	D 1	A
K. D., flat, in bundles	1	A
Reapers:		
Set up	1	A
Wheels on or off, other detachable parts removed	3	A
Rollers, field	3	A
2120		
Seed-drills (seeders), N. O. S.:		
Set up	D 1	A
K. D.	1	A
Stalk-cutters:		
Roller, set up	D 1	A
Roller, K. D., in pieces	1	A
N. O. S.	1	A
Thresher, separator, clover-huller, or corn-sheller:		
One, set up, with or without horse power, requiring flat car, min. wt. 5,000 lbs.	1	A
Two, with or without horse power, C. L. rate	..	A
One, with steam power, C. L. rate	..	A
K. D., loaded in box car, actual weight	1	A
Tobacco-transplanters:		
Set up	D 1	A
K. D., flat and tied in bundles	1	A
Twine, binding, for harvesters	2	A
Wagons, tank, for farm engines:		
S. U. min. wt. 3,000 — each	1	A
K. D., in pieces, loaded in box car, actual weight	1	A
Wire, binding for harvesters on spools, boxed	4	A
Agricultural implements, parts of, at owner's risk released:		
Clevises, in boxes or barrels	4	A
Iron master or bull wheels, N. O. S.	2	A
Iron castings, loose	1	A
Iron castings, in boxes or barrels	4	A
2121 Ratings given above for iron castings will apply on cast-iron parts of agricultural implements, N. O. S.		
Sweeps or levers	2	A
Spring keys	2	A
Steel cutter-bars, in bundles	1	A
All other parts, N. O. S.	1	A

Agricultural implements—continued.

	L. C. L.	C. L.
Coulter plates and rolling coulters:		
In bundles	3	5
In boxes or casks	4	5
Plow beams, iron or steel	4	5
Plow beams and handles, wooden	3	B
Plow points, shares, lays, wings or mould-boards, iron or steel:		
N. O. S.	3	5
In boxes, crates, or casks	4	5
Plow points, plow handles, singletrees, doubletrees, and whiffletrees	..	A
Rake teeth, iron or wood, in bundles	3	4
Reaper and mower knife sections, boxed	1	5
Springs for agricultural implements, in boxes or barrels	3	
Teeth, cultivator, drag or harrow:		
In barrels or boxes	4	5
In bundles	3	5
Wheels, agricultural implements, N. O. S.	3	5
Agricultural implements, hand:		
Corn-planters, hand, released	1	3
Grain cradles:		
S. U.	3 t 1	A
K. D., in bundles	1	A
K. D., and completely boxed	2	A
2122		
Corn hooks and knives:		
In bundles, O. R.	1	3
In boxes	2	
Grain scoops	2	3
Forks, hay and manure	2	3
Forks, barley, wood or iron	1	3
Hay knives:		
In bundles, O. R.	1	3
In boxes	2	3
Hoes, N. O. S.	2	3
Hoes, eye, in barrels	3	3
Potato hooks, in bundles	2	3
Potato-planters, handles taken off, released	1	3
Rakes:		
Wooden	1	3
Iron	2	3

Agricultural implements—concluded.

	L. C. I.
Reaping sickles:	
In bundles, O. R.	1
In boxes	2
Roller, garden, and lawn scythes:	
In bundles	1
Boxed	2
Scythe snaths	1
Scythe stones	3
Shovels and spades	2
Albums, boxed	..
Animals, alive, N. O. S. in boxes or cages, released	3 t 1
Animals, stuffed, in boxes, O. R. released	3 t 1
Animal food:	
N. O. S.	2
In boxes or barrels	4
Antimony, in boxes or barrels	2
2123	
Apple-driers	D 1
Apple-parers	2
Aquariums, O. R., boxed	D 1
Artists' materials:	
Camera stands, photographers':	
Set up, crated or wrapped	D 1
K. D., tied in bundles	1
K. D., boxed or crated	1
Easels, common pine, in the white, K. D., crated	3
Stretcher frames:	
Artists' K. D., crated	3
Common pine, K. D.	3
Artists' materials, N. O. S., boxed, O. R.	1
Ash-sifters, released	1
Awnings and awning frames	1

B

Babbitt metal	3
Baby-jumpers	1
Bagging:	
Bags, cotton grain or salt, in bales or trusses	2
Bagging and bags, clayed	3
Bags, burlap, gunny or jute, in bales or bundles	4
Bags, planters, picking	4
Burlaps	4
Burlap webbing, in bales, O. R.	2
Bagging, for baling cotton, in rolls	4

		L. C. L.	C. L.
C. L.	Bagging or bags, N. O. S. in bales	2	3
3	Jute and jute butts, in bales, O. R. of fire	3	B
3	Jute webbing in bales, O. R.	2	
	2124 Bark, sassafras	1	
3	Bark, slippery elm, in bundles and bales	3	
3	Bark, tanners'	3	D
3	Barometers, boxed, O. R.	D 1	
3	Barrel racks, for grocers' use	2	
3	Barrows or vans, baggage:		
1	Set up	1½	A
	K. D.	1	A
	Baskets.		
	Baskets:		
5	Baskets in cases, min. wt. 10,000 lbs.	D 1	4
5	Baskets, not nested, in bundles, min. wt. 10,000 lbs.	3 t 1	4
	Baskets, N. O. S. nested in bdls. min. wt. 10,000 lbs.	D 1	4
	Baskets, overhandled, in bundles, with ends placed in each other min. wt. 10,000 lbs.	4 t 1	4
	Baskets, overhandled, covers and handles taken off and packed separately, baskets nested in bundles, min. wt. 10,000 lbs.	D 1	4
	Baskets, paper, fruit or peach min. wt. 10,000 lbs.	3 t 1	4
	Baskets, stave, split, rattan or willow nested in bdls. or crates, min. wt. 10,000 lbs.	1½	4
	Baskets, K. D. flat, in bundles, min. wt. 10,000 lbs.	3	4
	See also woodware.		
	Basket bottoms, wooden:		
	N. O. S.	1	
	In boxes, barrels or crates	2	
B	Basket material, splint, in bundles	2	B
	2125 Battery wagons, with or without tools and supplies for same enclosed, O. R.	1	
3	Beehives:		
	N. O. S. prepaid	D 1	
	Nested	1	
4	K. D.	3	D
	K. D., and honey boxed lumber	..	D
	Bees in hives, O. R.	3	
3	Not taken in L. C. L.		
5	Beer-coolers, metal released:		
5	In box cars	1½	
5	If flat car is required, min. wt. 5,000 lbs.	1	
5	Ratings on beer coolers, metallic, are applicable on the articles used in breweries and not on ice boxes or refrigerators for saloons.		
5			

	Bells:		
	Iron, O. R.	3	
	N. O. S., O. R.	2	
	Bellows, N. O. S. O. R.	1	
	Billiard balls, boxed	1	
	Billiard tables:		
	Boxed or crated, O. R.	1	
	Boxed or crated O. R. returned to manufacturer for repairs one-half tariff rates.		
	Billiard tables, slates and slabs boxed or crated O. R.	2	4
	Billiard tables and billiard-table slates and slabs, not boxed or crated, not taken.		
	Bins, flour, wooden:		
	S. U.	2	
2126	K. D. boxed or crated	3	
	Bins, flour, tin, boxed or crated	1	
	Bird cages:		
	Boxed	D 1	
	Nested boxed	1	
	Bird gravel or sand in packages	2	
	Birds stuffed, in boxes, released	3 T 1	
	Blackboards:		
	Blackboards, slate or wooden O. R.	2	4
	Liquid slate, for blackboards, in cans, boxed, or in wood, O. R.	4	5
	Paper and cloth, silicated, for blackboards. in bundles	1	
	Wood-pulp board, silicated	3	
	Blacking:		
	Blacking, harness or shoe, in glass or stone, packed in boxes or barrels O. R.	1	4
	N. O. S. in boxes or kegs	2	4
	Blacking, N. O. S. in boxes	2	
	Blocks, burr	4	
	Boats:		
	Boats N. O. S.	3 t 1	A
	Boats, (except racing shells), and steam launches	..	A
	Canvas boats, folded, in rolls, or packed in chests	1	
	Catamaran boats, taken apart, as follows:		
	Hulls	3 t 1	A
	Swans, boxed or crated	D 1	A
	Propelling wheels	1	A
	Oars	1	
	Racing shells	4 t 1	A
2127	Yachts, steam, O. R.	..	A

	L. C. L.	C. L.
Bone-ash	4	B
Bone-black	2	4
Bone, cuttle fish, in packages	1	
Bone-dust	4	B
Books	1	

Boots and shoes and findings.

Boots and shoes, and findings:		
Boots and shoes:		
Boxed	1	
In trunks (trunks released)	D 1	
Boot crimps	1	
Lasts, in boxes or barrels	2	
Lasts, in the rough, in bulk	..	A
Leather boot-legs and shoe-uppers	1	
Rivets, tabular, in boxes, bbls., or kegs	2	
Shoe-dressing, in glass, boxed, O. R	1	
Shoe-findings, N. O. S	1	
Shoe-pegs, in bags	1	
Shoe-pegs, in boxes, bbls., or kegs	2	
Bottles:		
Bottles, paper in boxes	1	4
Bottles, glass, in boxes, bbls., crates, or casks	3	5
Bottles, glass, in bulk	...	5
Demijohns, empty, O. R	D 1	4
Demijohns, boxed or in casks, O. R	1	4
See also "glassware."		
Bottle-stoppers, metal, boxed	2	
Bottle-wrappers:		
Paper, straw, or wood, flat, in barrels, boxes, or bundles	3	5
N. O. S. flat, in boxes or bundles, P. P	2	5
2128		
Boxes:		
Band-boxes:		
N. O. S	3 t 1	
Boxed	D 1	
Berry boxes:		
Nested, tied in bdls	1	C
K. D	..	C
K. D. in crates	3	C
Boxes, hardwood, N. O. S. nested, boxed	1	
Cigar boxes:		
Empty, in bdls., or crates, O. R	D 1	B

Boxes—concluded.

	L. C. L.	C. L.
Wooden, boxed, O. R.	1½	B
K. D. flat, in packages	2	B
Jewelers' boxes, paper or plush, boxed, O. R.	D 1	
Letter boxes	1	
Paper or pasteboard boxes:		
Nested, boxed or crated	D 1	
Not nested, boxed	3 t 1	
Min. wt. 12,000 lbs	3	
K. D. flat, in bundles, crates or boxes	3	5
Pasteboard insulating material, in bundles, crates or boxes	3	5
Pill boxes, in casks or boxes	D 1	
Tin cracker boxes, empty:		
Released O. R.	D 1	
Boxed, crated or in jackets O. R.	1	
Min. wt. 15,000 lbs	4	
Tin ointment boxes, in boxes or barrels	1	
Tobacco boxes, hardwood	1	B
Wooden boxes, N. O. S. and crates (new) empty	D 1	B
2129 Wooden boxes, turned in barrels, boxes or crates	2	
Brass articles:		
Blanks, plates, screws, bolts, rivets, sheets, flues, rods, tubing (brass), nails, rolls, tubing (bronze) N. O. S., O. R	1	4
In boxes, barrels, casks or kegs	2	4
Brass and copper, scrap	3	4
Castings	2	
Chain	2	
Faucets	2	
Fenders, stove or hearth, in boxes, barrels or crates	2	
Fittings, in boxes, barrels or kegs	2	
Ingots, O. R.	3	4
Railing, boxed, O. R	1	
Shovels, tongs, pokers, and stands for same (fire sets), packed	2	
Vessels:		
O. R	1	
In boxes or barrels, O. R.	2	
Brattice cloth, in bales or rolls	4	5
Bread:		
N. O. S.	1	
Hard bread	2	4
Brick:		
Bath brick, in barrels or boxes	4	B

	L. C. L.	C. L
Brick for stove lining:		
Loose, O. R.	1	
In boxes or barrels	4	
Common brick, N. O. S.	4	E
Enameled brick:		
In barrels or boxes	4	
2130 In car-loads	..	B
Loaded in cars with common and pressed brick..	4	
Firebrick (except stove lining), O. R.	4	D
Firebrick and fireclay, O. R.	..	D
Paving brick	..	E
Pressed brick, O. R	4	D
Porous brick	4	E
Brick-drying shelves (shooks or pellet boards)	3	C
Brick moulds, wooden:		
N. O. S.	1	
In boxes, barrels or crates	2	
Bridge-builder's outfit, including horses, tools, wagons, etc., second hand	..	A
Bridge material:		
Iron	4	5
Iron and wooden	..	5
Wooden	4	B
Brittan-a ware, in boxes or barrels, released	..	2
Bronze castings:		
For pulp-mill machinery, unfinished, weighing 100 pounds or over	4	5
N. O. S., O. R. B.	2	
Broom-corn:		
Pressed in bales, O. R.	1	
Pressed in bales, O. R., min. wt. 12,000 lbs	..	A
Loose, not taken.		
Brooms:		
In bales, racks or bundles	1	
Min. wt. 10,000 lbs	..	3
2131		
Brooms and brushes manufactured from broom-corn:		
In packages	1	
In packages min. wt. 10,000 lbs.	..	3
Broom racks:		
Set up	D 1	
K. D., flat, boxed or crated	2	
Brushes, hair, clothes or tooth in boxes	1	

	L. C. L.	C. L.
Brushes, N. O. S.:		
In bundles	1	
Boxed	2	
Brush block	3	
Brush for street-sweeping machines:		
In bundles	2	
Min. wt. 16,000 lbs.	..	4
Buckets, ore, wooden or iron	1	
Bullion, west-bound, released to valuation not exceeding one hundred dollars ($100) per ton	4	
Burial cases or coffins, and grave vaults:		
Crystal or glass (metallic frame, glass panels,) boxed, released	1½	3
Cement or wood:		
Wrapped, released	1½	3
Wrapped and crated, released	1	3
Boxed, released	2	3
Metallic, boxed, released	1½	3
Burial cases, not released	D 1	
Coffin trimmings:		
Metal, plain, boxed	2	
Plated, boxed, released	1½	

C.

Cabinets:		
Drug and dye cabinets, boxed, O. R.	1	
2132 Filing cabinets, boxed or crated, released	1	
Thread cabinets:		
Empty, boxed O. R.	1	
Filled with thread, boxed, O. R.	1	
Filled with thread, boxed, C. R	3 t 1	
Cages, menagarie, wood and iron, without glass	1	
Calf-weaners, boxed	2	
Candy-coolers, iron (heavy castings)	4	
Canes	1	
Cannons and caissons	2	
Can jackets:		
Wooden, min. wt. 10,000 lbs.	1	4
In boxes, barrels or crates, min. wt. 10,000 lbs.	2	4
Cans:		
Fruit cans, tin, crated, min. wt. 15,000 lbs.	2	4
Cans, pasteboard, with tin tops and bottoms, N. O. S., O. R., min. wt. 15,000 lbs.	1	4
Boxed or crated, O. R., min. wt. 15,000 lbs.	1	4

Cans—concluded.

	L. C. L.	C. L.
Nested, O. R., in boxes, barrels or crates, min. wt. 15,000 lbs.	2	4
Cans, railroad, milk, shipping, min. wt. 15,000 lbs.	1	4
Cans, tin (N. O. S.) and galvanized iron, empty:		
N. O. S., O. R., min. wt. 15,000 lbs.	D 1	4
Boxed or crated, or in wooden or metal jackets, O. R., min. wt. 15,000 lbs.	1	4
2133 Nested, O. R., in boxes, barrels or crates, min. wt. 15,000 lbs.	2	4
Oil cans, paper, metal-trimmed:		
N. O. S., O. R., min. wt. 15,000 lbs.	D 1	4
Boxed or crated, O. R., min. wt. 15,000 lbs.	1	4
Oil cans, glass, in tin or wooden jackets, packed in cases, O. R.	2	4
Capstans	2	
Carbon, clinker, (taken from gas retorts) in boxes, barrels, hhds., or sacks	4	See coke tariff
Carpet binding, metallic, in boxes or barrels	2	
Carpets and carpeting:		
In rolls or bales	D 1	
O. R. chafing, and so receipted for	1	
In boxes	1	
Carpet exhibitors, boxed, O. R.	1	
Carpet lining-sewed:		
In bales, compressed	1	4
In bales, compressed, and paper felt for carpet lining	..	4
Carpet lining, straw paper	4	B
Carpet-sweepers, boxed, released	2	
Carpet warp	1	
Carriers, new, empty:		
Bottle, carriers and cases	4	
Carboys O. R.	2	B
Carriers N. O. S.	1	
Chicken coops:		
Empty	D 1	
Compactly folded, O. R.	2	
Kegs, powder, wooden or iron, empty	1	
2134 Powder magazines, N. O. S.	1	
Quicksilver flasks	4	C
Soda-water retainers, metal	1	
Spools, barbed wire K. D.	3	C
Spools or bobbins, wooden for woolen mills boxed	2	A

Carriers, new, empty—continued.

		L. C. L.	C. L.
	Ale, beer, beer tonic, mineral water, porter in packages at following estimated weights, O. R. one-half 4th-s class rates:		
	Barrels, 100 lbs., each.		
	Half barrels, 55 lbs., each.		
	Quarter barrels, 30 lbs., each.		
	Eighth barrels. 20 lbs., each.		
	Bottles in cases:		
	2 doz. qrts., 50 lbs. per case.		
	4 doz. qrts., 90 lbs. per case.		
	2 doz. pts., 35 lbs. per case.		
	3 doz. pts., 50 lbs. per case.		
	4 doz. pts., 75 lbs. per case.		
	Bottles in casks:		
	6 doz. qrts. or 10 doz. pts., 125 lbs. per cask.		
	Acid and ammonia tanks or drums	4	
	Bags, N. O. S., second hand	4	
	Bags or sacks:		
	Cement, cotton seed, fertilizer, grain, plaster, ore, one-half 4th class.		
	Bottles, N. O. S., in boxes, barrels, or casks, O. R., actual weight, one-half 4th-class rates.		
	Butter crocks or jars, boxed	4	
	Butter tubs and firkins	4	
	Cans, in boxes, barrels, or crates	4	
2135	Carboys	4	D
	Cheese boxes	4	
	Cider barrels	4	
	Coil or reels, wood or iron	4	
	Coops	4	
	Cracker boxes	4	
	Cracker boxes, tin, boxed	4	
	Crates	4	
	Egg carriers or cases	4	
	Fish boxes or cars	4	
	Fruit baskets, boxes and crates	4	
	Fruit-tree boxes	1	
	Garden-seed boxes	1	B
	Grocery boxes	4	
	Iron acid drums	..	5
	Iron drums	4	
	Iron oil barrels	4	
	Iron spools, reels, bobbins, and cores, returned to paper mfgs., one-half 4th class.		

Carriers, new, empty—concluded.

	L. C. L.	C. L.
Kegs, powder, wood or iron	4	
Liquor packages, wooden	4	
Milk and cream cans	4	
Meat boxes or carriers	4	
Metal cylinders	4	
Oil cases	4	
Oyster pails	4	
Powder magazines	4	
Railway trucks (used to transport rolling stock)	..	D
Reels, cable	..	D
Safe harness, iron	4	
Spools, wooden, returned to paper mills, one-half 4th class		
2136 Spools, wooden, returned to woolen mills	4	
Sheet-lead carriers (boxes)	4	
Vinegar barrels	4	
Wrap beams	3	B
NOTE.—Charges for any shipment of carriers returned should not exceed what would accrue by application of ratings shown for the same packages, new.		
Cars, photograph	..	A
Carts, swill (barrel):		
Set up, on wheels	1½	A
Taken apart	1	A
Cases, metallic, for screws, bolts, and shot, in boxes or barrels	3	
Cases, screw and bolts, wooden, boxed or crated	1	
Cases, watch glass, boxed or crated, released	1	
Cash railways, boxed	1½	
Casters, roller, packed	2	
Cattle stanchions, in bundles	2	B
Cedar chests, crated	2	
Cement and manufactures of same:		
Cement, asbestes	4	5
Cement, building, in barrels:		
Cement, Portland, in barrels, minimum weight 400 lbs. per brl	4	C
Cement, domestic, in barrels, minimum weight 285 lbs. per barrel	4	C
Cement, building, in sacks	4	C
Cement, mortar color, in brls	4	C
Cement, fruit can	2	4
Cement, well tubing, in crates or hhds	4	B

		L. C.	L. C.
2137	Cement window caps, sills, chimney tops, wall coping, and similar articles for building purposes, manufactured from cement, O. R.	4	
	Cement, N. O. S	2	
	Cereals and cereal products:		
	Barley, pearl:		
	In sacks	2	
	In bxs., brls., or kegs	3	
	Barley, sprouted	4	
	Bran or shorts and malt sprouts:		
	In bags	4 corn tariff rat	
	In bulk	corn tariff rat	
	Bread meal	3	
	Buckwheat:		
	In bags or boxes	4 wheat tariff rat	
	In bulk	wheat tariff rat	
	Corn cobs:		
	In sacks or boxes	2	
	In bulk		
	Corn flake (cerealine):		
	In sacks O. R	2	
	In boxes, barrels or kegs	3	
	Corn malt	4	
	Corn meal, brewers' meal, and maizel:		
	In paper sacks or boxes	3 flour tariff rates and weigh	
	In cotton sack-	4 flour tariff rates and weigh	
	In barrels	4 flour tariff rates and weigh	
	Corn, pop:		
	In the ear	3	
	Shelled, in bxs., brls., or sacks	3	
	Corn, popped	1	
2138	Corn, seed, in boxes or barrels	3	
	Corn, sweet, shelled, in boxes or barrels	3	
	Corn-stalk pith, in boxes, sacks or crates	D 1	
	Cracked or rolled wheat:		
	In sacks, O. R	2	
	In boxes, barrels or kegs	3	
	Crackers and fruit biscuits	2	
	Cracker meal	3	
	Farina	2	
	Feed:		
	In bags	4 corn tariff rat	
	In bulk	corn tariff rat	

Cereals and cereal products—continued.

	L. C. L.	C. L.
Flour, N. O. S., and potato flour:		
In pails, and covers well secured, 4 flour tariff weights and rates		
In barrels, 200 lbs. per barrel..4 flour tariff weights and rates		
In cotton sacks or boxes, O. R. of wet and waste, actual weight.....4 flour tariff rates and weights		
In paper sacks, O. R. of wet and waste, actual weight.....3 flour tariff rates and weights		
Flour N. O. S. and feed..... flour tariff rates and weights		
Flour, buckwheat.....wheat tariff rates		
In barrels, actual weight.....4 wheat tariff rates		
In cotton sacks or boxes, O. R. of wet and waste, actual weight.....4 wheat tariff rates		
2139 In paper sacks, O. R. of wet and waste, actual weight.....3 wheat tariff rates		
Grain, N. O. S., including seed corn, (L. C. L. taken in bags only).....4	See tariff	
Grain screenings:		
In bags.....4 corn tariff rates		
In bulk.....corn tariff rates		
Grist:		
In sacks.....	2	5
In boxes, barrels or kegs.....	3	5
Hominy:		
In sacks.....	2	5
In boxes barrels and kegs	3	5
Malt	4	C
Oat hulls or oat dust.....4 corn tariff rates		
Oat meal and rolled oats:		
In paper sacks O. R. actual gross weight..... 2 flour tariff rates and weights		
In cotton sacks, O. R. of wet and waste, actual gross weight.....3 flour tariff rates and weights		
In boxes or kegs, O. R. of wet and waste, actual gross weight.....4 flour tariff rates and weights		
In barrels or half barrels, actual gross weight..... 4 flour tariff rates and weights		
Rice bran, hulls or chaff:		
In bags.....4 corn tariff rates		
In bulk..... corn tariff rates		
Rye, rolled:		
In sacks, O. R., actual gross weight..... 2 flour tariff rates and weights		
2140 In boxes or kegs, actual gross weight ..... 3 flour tariff rates and weights		

Cereals and cereal products—concluded.

		L. C. L.	C. L.
	In barrels or half barrels actual gross weight...	4 flour tariff rates and weights	
	Net feed or brewers' grains:		
	In bags	4 corn tariff rates	
	In bulk	corn tariff rates	
	Check perforators, boxed	1	
	Chemicals:		
	Acids:		
	Dry, in boxes or barrels, O. R.	1	
	In glass bottles, boxed, O. R.	1	A
	N. O. S. in carboys, O. R., P. P. or guaranteed	D 1	A
	N. O. S. in iron drums or in wood, O. R.	2	A
	In tank cars furnished by shipper	..	A
	Acids and marble dust, O. R.	..	A
	Ammonia:		
	In bottles, packed in sawdust in brls	1	A
	In carboys, O. R., prepaid or guaranteed	D 1	5
	In iron drums, O. R.	3	5
	In cans, boxed, O. R.	1	5
	In cans, not boxed, not taken.		
	Dry, in boxes or barrels	2	
	Anhydrous liquid, in iron cylinders, boxed or crated.	1	2
	Sulphate of	1	
	Argols	4	
	Ash, pearl or soda:		
	In barrels or casks	4	5
	In cans, boxed	3	4
2141	Potash, in barrels, casks, or in cans, boxed	4	5
	Barilla	3	
	Bleach, bleaching salts or bleaching powder (chloride of lime), in barrels, boxes or casks	4	5
	Blue vitriol	4	5
	Borax	3	4
	Brimstone:		
	In boxes or kegs	2	C
	In sacks, brls. or hhds	4	C
	Brimstone and sulphur	..	C
	Calcium, chloride of	4	5
	Calcium solution:		
	In barrels	3	
	In tanks, cars, or barrels	..	D

Chemicals—continued.

	L. C. L.	C. L.
Carbon, bisulphide of:		
In cans, boxed	1	
In drums, O. R. L.	2	4
Carboys and contents, N. O. S., O. R.	D 1	
Copperas	4	5
Gas liquors:		
In barrels	4	D
In tank cars furnished by shipper	..	D
Rating given on gas liquors should be confined to liquor obtained as a by-product in the manufacture of gas, it being the water used in clarifying gas after it has become saturated with gas fumes.		
Lime, bisulphide of, in brls.	3	D
Lime, carbonate of, in barrels or hogsheads	4	5
Lime, phosphate of, in brls. or bxs.	4	
2142 Lime water, in barrels	3	D
Lye, concentrated	4	5
Magnesia, carbonate of:		
In boxes	1	5
In bags, barrels or casks	3	5
Manganese, black oxide of, in brls. or casks	4	5
Phosphorous, only taken in tins hermetically sealed and packed in whiting, O. R.	D 1	
Potash, cyanide of, crude, in boxes	4	
Sal-soda:		
In cans, boxed	3	5
In boxes, bbls. or casks	4	5
Salt cake	4	
Soda:		
Bicarbonate of	3	4
Caustic, in tin cans, bxd., or in drums or pails	4	5
Hypo-sulphate, and sulphate of (Glauber's salts)	4	5
Nitrate of	4	5
Silicate of	4	5
Soda and sal-soda	..	4
Sulphur:		
In boxes and kegs	2	C
In sacks, brls. or hhds.	4	C
Tartarine, in iron drums or in wood	2	A
Zinc:		
Oxide of	4	5
Sulphate of	3	
Chimneys, earthenware, in sections	4	B

		L. C. L.	C. L.
	China and Japan goods:		
	In cases, O. R	1	
2143	In baskets, O. R	D 1	
	China and majolica ware:		
	In boxes, brls., casks or tierces, O. R	1	
	In crates or hhds., O. R	2	
	Chutes, dehorning cattle:		
	N. O. S	1	B
	K. D	3	B
	Cigars and cigarettes:		
	Boxed, not corded, strapped and sealed	D 1	
	Boxed, corded, strapped and sealed	1	
	Cigar-lighters, boxed	1	
	Cigar moulds, wooden, in bxs., brls., or crates	2	
	Cinders	..	E
	Cistern-cleaners	1	
	Cloak racks and hangers, bxd. or crated	2	
	Clocks and weights, bxd., O. R	1	
	Cloth-rollers, boxed or crated, rel	1	
	Clothes-line, wire	3	
	Clothes-line reels	2	A
	Clothing:		
	Clothing, boxed	1	
	Clothing (except personal effects), in sample trunks, released	1	
	Clothing, N. O. S., in bales, "Not taken."		
	Overalls, in bales, O. R. chafing	2	
	Cocoa beans	2	
	Cocoa butter	1	
	Cocoanut shells	4	C
	Coffee urns, restaurant, nickle-plated, boxed, released	1½	
	Compasses, pocket, boxed, O. R	D 1	
	Condition powders (animal), O. R	1	
2144	Cones, fir, in sacks	1	
	Confectionery:		
	Candy, confectionery and chewing gum:		
	N. O. S	1	
	At an agreed valuation of 10 cents per lb. and so receipted for	3	
	Confectioners' paste, in cans, bxd. or crated	2	
	Paste, almond, in cans, boxed or crated	2	
	Soda tablets, effervescent, agreed valuation 10 cents per pound and so receipted for	3	
	Coolers, water, boxed, O. R	1	
	Cooling-room material (doors, frames and sections)	3	

	L. C	L.	C. L.
Cooperage:			
Barrels, empty, as follows:			
Casks, large	D	1	
Beef, cider, liquor, oil, pork, vinegar, barrels, min. wt., 75 lbs. each		1	
Apple, flour, barrels 30 lbs. each		1	
Hogsheads, min. wt. 130 lbs. each		1	
Tierces, 100 lbs. each		1	
Beer barrels and kegs (new):			
Barrels, 90 pounds each		1	
Half barrels, 50 pounds each		1	
Quarter barrels, 30 pounds each		1	
Eighth barrels, 18 pounds each		1	
Barrels, casks, tierces and vats, also kegs of any description when shipped with barrels, tierces, casks or vats, empty, min. wt. 7,000 pounds		...	4
2145 Aggregate charge should not exceed that which would accrue by the use of class D rates, (min. weight 20,000 lbs.)			
Barrels and tierces, empty, old (see also junk)		..	D
Aggregate charge should not exceed that which would accrue by the use of fourth-class rates (min. wt. 7,000 lbs.).			
Butter tubs		..	B
Cheese-box stuff		3	D
Cisterns:			
Wooden	D	1	D
Wooden, K. D., O. R.		3	B
Coopers' flags in bundles		1	A
Drums, wooden, K. D.		4	D
Hoop or hop poles		4	D
Hoops, wooden and hoop poles		..	D
Hoops, wooden, shaved or coiled		4	D
Staves, heading, head-lining and wooden hoops, N. O. S.		4	D
Butter-tub stuff		3	D
Wired staves, in rolls, and heading and hoops for woven-wire barrels		4	D
Copper articles:			
Bolts, bottoms, blanks, flues, nails, plates, rivets, rods, rolls, screws, sheets, tubing, O. R.		1	4
In boxes, barrels or casks		2	4
Copper, ingot or pig:			
N. O. S.		2	4
In boxes or casks		3	4
Copper chain		..	2

2146	L. C. L.	C. L.
Copper vessels:		
O. R.	1	
In boxes or barrels, O. R.	2	
Copper, N. O. S. in boxes	2	4
Cordage:		
Lath yarn:		
Twisted in rope, ¼ inch or over in diameter, and coiled	..	4
Coiled (single strand)	..	2
Marline, in coils	..	4
Rope, N. O. S.:		
In bundles	1	4
In bales, boxes, or barrels	2	4
One-quarter inch or over in diameter, in coils or on reels	4	4
Rope, old, in bales, boxes, brls., or crates, (see also junk)	4	D
Twine:		
In bundles	1	4
In barrels, bales, and boxes	2	4
Cork, N. O. S. or corks	1	
Cork fenders, in packages or bundles, securely tied	1	
Cork, ground or granulated	4	E
Cork, shavings	D 1	E
Cornice and brackets, copper, galvanized iron or zinc; released	3 F	1
Nested and racked, released	1	
C. L. or when flat car is required, O. R. released min. wt. 10,000 lbs.	..	3
Corn-poppers:		
O. R.	D 1	
Nested, boxed	1	
Cosmoline, in glass, or cans, boxed	1	
2147 Cotton, in bales or sacks	1	
Cotton-seed cake, meal, and stock	4	C
Cotton-seed hullers	2	
Cracker-box covers, glass, in boxes, bbls. or crates	2	4
Creamery and dairy products and supplies:		
Butter, butterine, and butter grease at O. R.:		
In crocks	D 1	3
In crocks or jars, or in glass, boxed	2	3
In wood or tin	2	3
In hermetically sealed cans, boxed	3	4
Butter, butter grease, butterine, cheese, dressed poultry, eggs	..	3
Butter-tub cover fasteners, tin, strap and tack combined	2	

Creamery and dairy products and supplies—continued.

	L. C. L.	C. L.
Butter-workers:		
Set up	1½	
K. D.	1	
Cheese, in boxes, tubs or casks	2	3
Cheese loose, not taken.		
Churns, factory, gudgeons and wheels detached and crated separately, O. R.	2	A
Creameries, used for refrigerating cream:		
L. C. L.	2	
Min. wt. 16,000 pounds	..	A
Cream-separators, detachable parts removed, boxed or crated, O. R.	1	
Creamery and cheese factory machinery, consisting of—		
Belting	..	A
48 Boilers	..	A
Butter-workers	..	A
Cheese presses	..	A
Churns and crane irons	..	A
Cream setters and separators	..	A
Cream-testing machines	..	A
Curd mills	..	A
Engines	..	A
Force-pumps	..	A
Milk-testing machines	..	A
Pipe and connections	..	A
Pulleys	..	A
Refrigerator cream tanks and cans	..	A
Smokestack	..	A
Shafting and hangers	..	A
Vats	..	A
Weighing cans	..	A
Curd	3	
Milk, condensed:		
In cans, boxed	4	5
In barrels or half barrels, O. R.	4	5
Milk, N. O. S. and cream, in cans, O. R.	1	
Milk food, in cans, boxed	1	
Oleomargarine:		
In crocks, O. R.	D 1	3
In wood or tin, O. R.	2	3
Premost, in boxes, tubs or casks	2	3
Presses, cheese	1	
Refrigerator cream tanks	2	

Creamery and dairy products and supplies—concluded.

		L. C. L.	C. L.
	Rennet:		
	In glass or jugs, packed in open boxes, kegs, or jackets, O. R.	D 1	
2149	In glass or jugs, completely enclosed in boxes, kegs or jackets, released	1	
	Prepared in brls. or kegs	2	
	Tablets, in boxes	1	
	Scale boards (for packing cheese)	2	A
	Vats, cream or cheese:		
	Set up	D 1	D
	Legs and detachable parts taken off, crated	1	D

Crockery.

	Crockery, queensware and earthenware, N. O. S.:		
	In brls. or boxes	2	5
	In crates, casks, tierces or hhds., O. R. B.	4	5
	In bulk, O. R. valuation not to exceed five hundred ($500) dollars per car, to be so stated by shipper in shipping receipt, loaded by shipper and unloaded by consignee	..	5
	Provision for crockery, in boxes, barrels, crates, casks, tierces and hhds., are applicable on shipments in covered packages only.		
	Cuspidors, iron:		
	Released	2	5
	Crated	3	5
	In boxes, brls., or hhds.	4	5
	Custard, dry, in glass, boxed, O. R.	2	
	Cutlery, boxed	1	
	Cylinders phonograph or graphophone, paper or wax, boxed O. R.	1	

D.

	Deer horns, boxed	1	
2150	Dextrine, in bags, brls., or boxes	2	4
	Dictionary-holders and parts, boxed	2	
	Dish-washing machines, boxed or crated	1	
	Disinfectants, dry:		
	In barrels	3	
	N. O. S., O. R.	1	
	Door-hangers:		
	Barn-door hangers, iron, boxed	3	
	Barn-door rails, iron	3	
	Barn-door hanger rails, wooden, in bundles	3	

	L. C.	L.	C.	L.
Door trusses and braces, iron:				
N. O. S.		2		5
Bxd. or crated		3		5
Parlor-door hangers, boxed		2		
Drawers, money:				
Money drawers, boxed or crated, O. R		1		
Cash-registers, boxed, O. R	D	1		
Drawer-equalizers, wooden in bxs. or crates		2		
Drugs:				
Drugs and medicines, N. O. S., O. R		1		
Epsom salts		2		5
Gum camphor		1		
Salts, rochelle		2		
Dry goods:				
Batting, in boxes or bales, O. R		1		
Blankets, comfortables and quilts, in boxes or bales, O. R. chafing		1		
Bustles:				
N. O. S., in boxes	D	1		
Wire or steel, nested, in boxes		1		
Canvas		1		
2151 Dry goods.				
Dry goods, N. O. S.:				
In bales	D	1		
In bales, O. R., released		1		
In boxes		1		
In trunks, (trunks released)	D	1		
Enameled cloth and opaques, bxd		1		
Hemp yarns, boxed		1		
Raw silk, boxed, O. R		1		
Wadding, in bxs. or bales, O. R		1		
Whalebone		1		
Yarns, N. O. S		1		
Drying closets, laundry, hot air, including stoves for same; closets K. D., and stoves, crated, O. R		2		
(Dyestuffs:)				
Dyestuffs, N. O. S		1		
Dyewoods		2		4
Gambier (cutch or terra japonica)		3		
Indigo		1		
Logwood extracts:				
Liquid		1		4
Solid		2		4
London purple		4		
Madder		2		
Sumac		3		

E.

	L. C. L.	C. L.
Egg-box stuff, wooden in bundles or racks	4	B
Egg-carrier fillings (straw board and wood), K. D. boxed	4	B
Egg cases and carriers, new	1	B
2152		
Eggs at O. R.:		
In baskets	D 1	
In patent carriers	2	3
Packed in brls. or boxes, P. P	2	3
Egg yelks, in brls., O. R	2	
Electrical appliances, machinery, and supplies:		
Batteries, electric storage, wood or lead, released	1	
Batteries, galvanic, boxed, O. R	D 1	
Cable, electric, inclosed in lead pipes, on reels	4	5
Cable, wire, telegraph	4	5
Car trucks, electric motor	1	3
Carbon points (electric light) boxed	1	3
Conduits:		
Interior insulating, and fittings, boxed, crated, or in barrels	1	3
Underground (for electric wires), stone, clay or cement	4	D
Wooden, creosoted	3	5
Dynamos	1	4
Electric-light machines, consisting of arc light, globe frames	..	4
Cross-arms	..	4
Dynamo, K. D., crated	..	4
Dynamo, parts, K. D., crated	..	4
Engines, insulators	..	4
Pins, wire	..	4
Electric-light globes and bulbs or lamps, glass, in boxes or barrels, O. R	..	1
Electric-light globes and bulbs or lamps, glass, not packed, not taken.		
2153 Electric street mains and couplings	4	5
Electric appliances and supplies, N. O. S., O. R., in boxes or barrels	1	
Iron poles, for electric railways	4	
Lead storage plates, for storage batteries, boxed	3	
Mast arms and hangers, for electric-light poles	4	5
Porous cups (earthenware), for electric batteries, in boxes, O. R. B	2	5

Electrical appliances, machinery, and supplies—concluded.

	L. C. L.	C. E.
Steps, cross-arms and pins, iron, for telegraph or telephone poles, in boxes, barrels or kegs	4	5
Telegraph arms and pins	3	C
Telegraph insulators, in boxes and barrels	4	5
Telegraph or telephone instruments and fixtures, boxed	1	
Telegraph or telephone poles, iron, O. R	2	4
Telegraph poles, N. O. S. (See lumber tariff.)		
Zinc, local battery, in boxes or barrels	3	5
Elk heads or horns, U. S. (mounted), boxed or crated, O. R	D 1	
Emery	2	4
Emery wheels, boxed	2	
Emigrants' movables, property of intending settlers only (household goods, released to valuation of five ($5.00) dollars per 100 lbs., in case of loss or damage, and so declared on shipping ticket or bill of lading by shipper), prepared or guaranteed		B
2154 The term "emigrants' movables" applies to household goods, farm machinery, and vehicles (second hand), live stock not to exceed ten (10) head, trees and shrubbery, lumber and shingles (not to exceed in the aggregate the equivalent of 2,500 feet of lumber), fence posts (not to exceed 250 in number), or a portable house and property included in the outfit of intending settlers, but does not include doors, sash, blinds, provisions, grains (unless intended for seed, or for feeding animals while in transit), general merchandise or any article intended for sale or speculation.		
Enameled or agate ware, sheet-iron:		
In boxes, crates or barrels	1	4
Nested, in boxes, barrels or crates	2	4
Nested solid, (same requirements as for stamped tinware)	3	4
Excelsior, in bales	3	C
Extracts:		
Extracts, N. O. S	1	
Extracts of beef and bouillon, boxed, O. R	1	
Tanning extracts, in barrels	2	5
Eye glasses, boxed, O. R	D 1	

F.

Facings, coal or foundry	4	D
Feathers:		
Feathers, feather beds and pillows, in bales, bags or bundles, O. R	D 1	

Feathers—concluded.

		L. C.	L.	C.	L.
2155	Feathers, in boxes	D	1		
	Feathers, domestic, machine compressed, in bales.		1		
	Feathers, imported, in original packages (iron-hooped bales, weighing not less than 600 pounds)		2		
	Feather dusters, boxed, O. R		1		
	Feather pillows, machine compressed, in bales		1		
	Quills, packed, O. R	D	1		
	Fencing, materials and supplies:				
	Barbed-wire stretchers and lifters:				
	In bundles		1		
	In boxes or barrels		3		
	Combination wire and wood fence, in rolls		4		C
	Fence-post drivers, K. D., flat, in boxes or bundles, released		1		A
	Fence, wooden, in sections, and gates		1		B
	Fence, wooden, K. D., in bundles		3		B
	Fencing, expanded metal		2		4
	Fence-looms:				
	Set up		1½		A
	K. D., in pieces		1		A
	Completely K. D., and boxed		2		A
	Iron fencing or railing, O. R		2		5
	Iron fence, taken apart, in bundles		4		5
	Iron fence-posts, wire fence-stays and staples, in kegs, and barbed-wire stretchers and lifters, in boxes or barrels, shipped with fence-wire, in mixed car-load				5
	Posts, fence wooden		See lumber tariff		
	Wire barbs, in kegs or boxes		4		5
2156	Wire fence-stays, in bundles		4		5
	Wire fence, in rolls, and gates in bundles		4		B
	Wire fence, in rolls, and gates in bundles		4		B
	Wire fence, with steel posts and tubular railing, in rolls or bundles		4		B
	Wire fence or wire works for interior finish, boxed		1		
	Wire fence-staples, in boxes, kegs or barrels		4		
	Fertilizers:				
	Fertilizers, N. O. S., in packages		4		E
	Fertilizing salt		4		E
	Guano		3		
	Land plaster, in sacks or barrels		4		C
	Tobacco dust (refuse sweepings of tobacco factories used as fertilizer), in barrels		4		E
	Fibre:				
	Cactus, fibre, pressed in bales		3		C
	Cane rubbing, in bales		2		B

Fibre—concluded.

	L. C. L.	C. L.
Cocoa fibre, in rolls or pressed in bales, O. R. of fire..	2	
Fibre, N. O. S., in bales, O. R. of fire.....	2	B
Flax and flax moss, in bales, O. R. of fire.....	2	B
Flax straw.....	..	E
Grass, fibre, pressed in bales, O. R. of fire.....	..	2
Hemp, in bales, O. R. of fire.....	2	B
Manila, in bales....	2	B
Oakum, in bales, O. R. of fire.....	2	B
Palm fibre, in bales...	2	B
Ramie, crude, in bales, O. R. of fire...	4	E
Rattan.....	1	
2157 Sisal.....	3	4
Tampico, in bales, O. R. of fire.....	3	B
Tow, in bales, O. R. of fire.....	2	B
Vulcanized fibre.....	3	
Figures, wooden or display, N. O. S.:		
Set up.....	3 t 1	
Crated.....	1½	
Boxed.....	1	
Filters:		
N. O. S., boxed.....	1	
Wooden, O. R.....	2	3
Metallic, in bxs. or brls.....	1	3
Fire-alarm boxes, boxed or crated.....	2	
Fire apparatus:		
Carriages, hose (four wheel), loaded in box car, 3,000 pounds each	1	A
Carts, hose (horse):		
Loaded in box car, 2,000 pounds each.....	1	A
Loaded on flat cars.....	1	A
Carts, hose (hand):		
Loaded on flat cars.....	D 1	A
Actual weight	D 1	A
Carts, hose, K. D., boxed or crated, loaded in cars....	1½	A
Engines, fire:		
Chemical, N. O. S., min. wt. 6,000 lbs. each	1	A
Chemical, hand, actual wt.....	D 1	A
Hand, N. O. S., min. wt. 3,000 lbs. each.....	1	A
Steam, min. wt. 8,000 lbs. each.....	1	A
Steam, hand, min. wt. 3,000 lbs. each.....	1	A
2158 Fire-engines (or mounted pumps) without boxes loaded in box cars.....	D 1	A

Fire apparatus—concluded.

	L. C. L.	C.
Fire-extinguishers:		
Hand grenade, boxed, O. R.	1	A
N. O. S., O. R.	1	
Fire-extinguishing fluid, N. O. S., in barrels or casks, O. R. L.	4	5
Hook and ladder trucks:		
Set up, min. wt. 5,000 lbs. each	1	
Wheels taken off, loaded in box cars	D 1	A
Hose bridges, K. D., in bdls.	3	4
Iron fire-escapes:		
Boxed or crated	3	
N. O. S.	1	
Fish:		
Fish dried, pickled or salted fish, N. O. S.	4	5
Codfish, in bundles	3	5
Fish eggs, O. R., P. P. or gtd.	1	4
Fresh fish (gross weight), O. R., P. P. or gtd.	1	4
Fresh fish, not in water-tight packages, not taken.		
Fish in glass, packed in barrels or boxes	2	5
Herring, dried or smoked, in boxes	3	5
Smoked fish, N. O. S.	3	5
Oysters and clams:		
Fresh, in tubs, cans or kegs (gross weight), prepaid or guaranteed	1	
Shell, in brls., prepaid or guaranteed	2	3
Pickled or cove-packed	4	5
(See also preserves.)		
2159 Sardines or shadines, domestic or imported, in boxes or kegs	2	5
Flag poles:		
N. O. S.	1½	
Iron, and attachments, K. D.	2	5
Flax meal	4	C
Fluters, boxed	2	
Food, prepared, for infants, and invalids	1	
Foundry flasks (new or second hand), and follow boards	3	E
Frames:		
Frames, picture and mirror:		
Wrapped	D 1	
Wrapped, released	1½	
Boxed or crated	1	
Glazed, boxed O. R.	1	
Glazed, crated	1½	
Picture and mirror frames, and moldings, wrapped or packed, released, min. wt. 10,000 pounds	..	2

	L. C. L.	C. L.
Fruit:		
Apples:		
In baskets or bags, O. R., P. P. or gtd.	1	5
In barrels or boxes, O. R., P. P. or gtd.	3	5
In bulk, O. R.	..	5
Apple cores and skins, in bbls., bxs. or sacks	4	B
Bananas, O. R., prepaid or guaranteed	1	3
Berries, fresh, O. R. prepaid	1	3
Citron	1	
Cranberries, domestic or imported:		
In boxes, O. R	2	4
2160 In barrels, O. R.	3	4
Currants, fresh, O. R. prepaid	1	
Dates	1	
Figs:		
In drums or sacks	1	
In boxes or casks	2	
Fruit, dried, desiccated or evaporated, including apples, berries, currants, grapes (exclusive of raisins), peaches, and prunes, in cans, boxes, barrels or sacks, released	3	4
Fruit, green, N. O. S., O. R. prepaid or guaranteed	1	3
Fruits, green, tropical and domestic (including cocoanuts, but not including nuts, edible, N. O. S.) and cranberries, domestic or imported, O. R., P. P. or guaranteed	..	3
Grapes, domestic or foreign, O. R., P. P. or guaranteed, in boxes, kegs, baskets or stands	1	3
Lemons, oranges, bananas and other tropical fruit, O. R., P. P. or guaranteed	1	3
Melons:		
In packages, O. R., P. P.	1	C
In bulk, O. R., P. P	C	
Peaches, green, O. R., P. P. or guaranteed	1	3
Pineapples, packed, O. R., P. P. or guaranteed	1	3
Prunells, in boxes or casks	2	
2161		
Prunes:		
In cans, glass or jars, packed, released	1	
In boxes or sacks, released	3	4
In original casks or in barrels	4	
Raisins	2	3
Fruit-driers, N. O. S. (cast-iron parts of, detached and boxed or crated) O. R.	1	
Fruit-jars or fruit-jar tops, in boxes or barrels O. R.	2	4
Fruit-pitters	2	

	L. C. L.	
Fuel:		
Charcoal:		
In barrels, hhds. or sacks	3	
In bulk	..	..
Coal:		
In hhds., barrels, boxes or bags	4	See ta
In bulk		See ta
Coke:		
In bxs., bbls., hhds. or sacks	4	See ta
In bulk		See ta
Fire-kindlers, N. O. S		3
Fuel composition, in brls. or kegs		3
Fuel or stove cartridges, boxed		1
Peat		4
Peat fuel-blocks		..
Wood (fuel):		
In boxes		3
In bulk		..
Furniture, released, O. R. of rubbing, chafing or breakage, when in car-loads, as follows, viz:		
Bed-slats		..
2162 Bedsteads (not folding beds), extension-bed lounges (not upholstered), min. wt. 16,000 pounds		..
Bedsteads (not folding beds), extension bed lounges (not upholstered), and tables		..
Bunks, and bunk bottoms, iron frames, min. wt. 16,000 lbs		..
Chairs, common, and settees, N. O. S. (not upholstered), min. wt. 12,000 lbs		..
Chair seats, perforated wood		..
Church furniture, K. D.—altars, pew backs, chancel rails, mouldings, pew ends, pulpits, seats, minimum weight 16,000 pounds		..
Mattresses, bunk bottoms (wood frames), spring beds, spring-bed bottoms, cots (including folding cots) and mattresses with head-boards and attachments, min. wt. (10,000 lbs.)		..
Preservers, fruit and vegetable, min. wt. 16,000 lbs		..
Refrigerators, min. wt. 16,000 pounds		..
Safes, kitchen, minimum weight 16,000 lbs		..
School desks and seats		..
School-desk castings		..
Spring beds, completely K. D. (or spring-bed material, consisting of lumber, springs, ties and staples in boxes, barrels or casks; hoop iron in bdls.), min. weight 24,000 lbs		..

Furniture—continued.

		L. C. L.	C. L.
	Tables, N. O. S. and table slides	..	A
	Theatre seats, min. wt. 16,000 pounds	..	3
2163	Furniture, new, except where higher charges will accrue by application of rating shown above, min wt. 10,000 pounds	..	3
	Furniture, new, L. C. L., at O. R. of rubbing, chafing, or breakage, released, as follows, viz:		
	Bamboo furniture, wrapped or crated	D	1
	Bank counters:		
	N. O. S.	D	1
	K. D. (in sections not over 16 feet in length)		1
	NOTE.—Fittings for bank counters may be loaded with bank counters in mixed car-loads at same rate.		
	Beds, folding (folding beds), boxed, wrapped or crated		1
	Bed-slats in bundles		3
	Bedsteads:		
	N. O. S.		2
	Brass, K. D.		1
	Iron, K. D.		2
	Bed lounges, extension, not upholstered		2
	Bed teasters or canopies, boxed, crated or wrapped O. R.	D	1
	Bookcases, wrapped or crated		1
	Bottle or liquor cases, boxed or crated		1
	Boxes, post-office (lock and call), boxed or crated		1
	Bunks and bunk bottoms, iron frames, K. D. in bundles		3
	Bunk bottoms, wood frames		1
	Bureau, wrapped or crated		1
2164	Bureau, glass frames, in bdls., wrapped or crated		1
	Cabinets, post-office, boxed or crated		1
	Cane seats, for chairs, in bdls., crates or boxes		1
	Cane, woven, for chairs seats, in bundles, crates or boxes		1
	Car seats and chairs, upholstered, boxed or crated		1
	Chairs, barber, dental, reclining or surgical:		
	Set up	D	1
	Partially K. D.		1
	Completely K. D.		2
	Chairs, camp and folding seats, wrapped or crated		2
	Chairs, hammock, folding		2
	Chairs, lawn, bases detached and packed on top of seats		1

Furniture—continued.

	L. C.	L. C.
Chairs, N. O. S.:		
Set up, wrapped or crated	D	1
Completely boxed		1
K. D. in bundles or boxes		2
Chairs, office, cast-iron parts off, in boxes, barrels or casks		4
Chairs, rattan or willow:		
Set up, wrapped, boxed or crated	3 t	1
K. D. wrapped or crated	D	1
Chairs, cane, splint and wood, seats, set up, wrapped or crated		1½
Chair bases, wooden, front and back stretchers removed, nested, in bdls., crates or boxes		2
2165		
Chair frames:		
N. O. S.	3 t	1
In white, nested	D	1
Chair rockers, in bdls. or bxs		2
Chair seats, perforated, wood:		
K. D. tied in bdls		1
K. D. crated or boxed		3
Chiffoniers, crated or wrapped		1
Church furniture—altars, chancel rails, mouldings, pew backs, pew ends, pulpits and seats:		
N. O. S.		1½
K. D.		2
Cots:		
N. O. S., K. D. or folded		3
Wire		1
Cribs:		
Brass, set up	D	1
Brass, K. D.		1
N. O. S., K. D. or folded		2
Dressing cases, crated or wrapped		1
Desks, wrapped or crated		1
Furniture frames:		
N. O. S.	3 t	1
In white, nested	D	1
Furniture, N. O. S.:		
Set up, crated or wrapped	D	1
K. D., tied in bundles		1½
K. D., boxed or crated		1

Furniture—continued.

	L. C. L.	C. L.
Glass, forming an integral part of hat-racks; sideboards and folding beds, may be rated the same as the article of which it is a part.		
2166		
Hall stands:		
Set up, wrapped, crated or boxed		1½
K. D., wrapped or crated		2
Hassocks and foot-stools wrapped		1
Hat-racks:		
S. U., wrapped or crated		1½
K. D., wrapped, crated or boxed		2
Iron furniture, N. O. S.:		
Set up	D	1
K. D.		1
Lounges:		
Upholstered, N. O. S., wrapped, or crated	D	1
Upholstered, backs taken off		1
Willow or rattan	3 t	1
Without backs		1
Lounge frames:		
Set up	3 t	1
Backs taken off		1
Without backs		1
Mattresses, except coil wire or spiral spring		1
Pigeon-holes, nests of, boxed or crated		1
Preservers, fruit and vegetables:		
Set up		1½
K. D.		2
Racks, coat and hat, wall, crated, boxed or wrapped		1½
Refrigerators:		
Cigar, wooden, metal lined		2
Paper, wrapped, O. R		1½
N. O. S., and slides		2
Rustic furniture, set up	D	1
2167		
Safes, kitchen:		
Set up		1½
K. D.		2
School desks and seats:		
Set up		1
K. D.		2
School desks, folded, compact, wrapped O. R. released		2

Furniture—concluded.

	L. C. L.	C. L.
School-desk castings, crated, or in bundles, ends protected		2
Screens, ornamental, wood or composition, packed flat or boxed	D	1
Settees, folded and packed flat		2
Settees, N. O. S.:		
S. U., wrapped or crated	D	1
Boxed		1
K. D., in bundles or boxes		2
Sideboards, wrapped or crated		1
Slabs, marble, slate or stone for furniture, boxed or crated		3
Sofas and tete-a-tetes, wrapped or crated	D	1
Spring beds and spring-bed bottoms, coiled wire or spiral springs:		
Set up		1¼
Folded and tied in bundles		1
K. D., boxed		2
Spring-bed material, consisting of lumber, springs, ties, and staples, in boxes, barrels, or casks:		
Hoop iron in bundles		4
Stools:		
Office, boxed or crated		1
2168 Store, with iron cases, boxed or crated		1
Tables:		
N. O. S., wrapped or crated		1
N. O. S. (except extension tables).		
K. D. or folded		2
Extension pillar, K. D. packed		3
Table legs, slides, leaves and supports (extension tables K. D.)		3
Theatre seats:		
S. U		1½
K. D.		2
Wardrobes:		
Set up, wrapped or crated		1½
K. D., wrapped or crated		2
Washstands, wrapped or crated		1
Furniture stock, in rough, sawed to shape, not further finished		B

	L. C.	L.	C.	L.
ırs and skins:				
Buffalo robes, in bales		1½		
Chamois scrap clippings, in bxs., barrels, or bags		3		
Deer skins, in bales or bundles		1		
Furs:				
In sacks or bales	3 t	1		
In boxes		1		
Goat robes:				
In bales		1½		
Boxed		1		
Pelts and peltries (raw, undressed furs), other than sheep not dressed		1		
Skins, N. O. S., in bales		1		
ıse and squibs, boxed, O. R		1		
169 G.				
ambrels, in boxes, brls., or crates		4		
ame and poultry:				
Game, O. R., P. P. subject to State law		1		
Poultry:				
Dressed, O. R		1	3	
Alive, in coops, O. R. released, P. P. or gtd	D	1	A	
NOTE.—One person may be passed with one or more car-loads of live poultry, in coops, to feed water and care for the same. No return pass will be given.				
Venison, O. R., P. P. subject to State laws		1	3	
as in metal cylinders, O. R., P. P., boxed		1		
as fixtures, in boxes, brls. or hhds., O. R		1		
asoline soldering furnaces, boxed or crated, O. R		3		
erman silver in sheets or rolls, in boxes, barrels, half barrels, or casks		3		
erman silver scrap		3		
erman silverware, boxed, rel		1½		
lass:				
Bent glass, boxed, O. R. B		1½		
Colored, N. O. S. decorated, enameled, figured, ground, leaded, stained, glass; boxed, in packages not exceeding 20 feet united measurement (length and width added), O. R		1	3	
Boxed, in packages, exceeding 20 feet united measurement (length and width added), O. R.	3 t	1	3	

Glass—continued.

	L. C. L.	C. L.
Looking glasses, mirrors, and shock glass, boxed:		
External measurement of pkg., exceeding 5½ ft. in length loaded in box car, O. R.	D 1	
External measurement of pkg. 5½ ft. and under in length, loaded in box car, O. R.	1	
When of such size as to require flat car, O. R. released	3 t 1	
Plate glass, boxed:		
In packages exceeding 20 feet, united measurement, (length and width added), O. R.	3 t 1	3
In packages not exceeding 20 feet, united measurement (length and width added), O. R.	1	3
Rough glass, for vaults or skylights	4	5
Rough rolled or ribbed glass, colored or uncolored, N. O. S.	4	5
Window glass, common, boxed:		
External measurement of package exceeding 86 united inches, (length and width added), O. R.	1	
External measurement of pkg. not exceeding 86 united inches, (length and width added) O. R.	2	
External measurement of pkg. not exceeding 68 united inches, (length and width added), O. R.	4	
Loaded in box cars, O. R.	5	
Glass, scrap, in bxs., brls., or hhds. See also junk	4	D
2171 Glassware, N. O. S., including glass battery jars and lantern globes, in bxs., brls., casks or crates, O. R.	2	4
Battery jars (glass), bottles (glass), demijohns, glassware, N. O. S. glass lamps, and founts, lamp chimneys, lamp globes (glass), in bxs., brls., crates, or casks, O. R.	..	4
Glass house pots (earthenware), O. R. B.	2	4
Glaziers' points, boxed	2	
Globes, geographical, bxd., O. R.	D 1	1
Glucose, grape sugar, and glucose syrup	4	5
Glucose refuse or sugar meal	4	E
Glue:		
Dry glue	3	4
Liquid glue:		
In glass, boxed	1	
In tin, boxed	2	
In bulk, in barrels, O. R. L	2	3
Glue pots	2	

	L. C. L.	C. L.
Glycerine:		
In glass, boxed, O. R.		
In cans, boxed or jacketed	2	3
In brls., drums or casks	3	4
Gold and silver foil, not taken.		
Graders' outfit, second hand	..	A
Graphophones, boxed, O. R.	1	3
Grasses, N. O. S. in boxes or brls.	1	
Grease:		
Axle grease:		
In cans, buckets, pails or tubs	2	5
In bxs., brls., or kegs	4	5
Grease (except axle):		
In buckets, tubs or pails	2	5
In barrels	4	5
2172		
Grindstones:		
C. R.	1	
O. R.	4	B
Mounted, O. R.	2	B
Grindstone frames:		
Set up	1	B
K. D. and tied in bundles	3	B
Grindstone fixtures, iron in bundles, boxes, or crates	3	B
Groceries:		
Allspice, in bags, boxes or brls.	..	2
Baking powder:		
In glass, boxed, O. R.	3	4
In tin, in brls. or in tin, boxed	3	4
Blueing	1	4
Candles	3	4
Cassia:		
In mats	1	
In boxes	2	
Chocolate	1	
Cloves	2	
Cocoa	1	
Cocoanut, concentrated or desiccated	2	
Coffee:		
Condensed, in cans, boxed	3	5
Condensed, in glass, boxed	1	5
Extracts or essence	3	
Green, in sacks	4	5

Groceries—continued.

		L. C. L.	C. L.
	Ground, in boxes, cabinets (wood or iron), or barrels	3	
	Ground, in tin cans, crated, O. R.	3	
	Ground, in glass jars, packed in barrels or boxes	3	
	Roasted, in sacks	3	5
2173	Roasted, packed in drums, boxes or barrels	4	5
	Roasted, in tin cans, boxed or crated, O. R.	4	5
	Cream tartar	2	
	Ginger	2	
	Groceries, N. O. S.	1	
	Lemon and orange peel, in boxes or drums	1	
	Macaroni, boxed	1	
	Mustard, dry, in cans boxed	2	
	In bulk, in barrels	3	
	Nutmegs	1	
	Pepper	2	
	Pepper mixtures	2	
	Rice, rice flour, rice meal, or broken rice in bags, brls., or tierces	4	5
	Sago, boxed or in bags	1	
	Saleratus	3	4
	Saleratus and bicarbonate of soda	..	4
	Saratoga chips, packed	1	
	Spice:		
	In pails, crated	2	
	In pails with wooden covers	1	
	N. O. S. in bags	1	
	N. O. S. in boxes or brls.	2	
	Spice meal	2	
	Starch:		
	N. O. S. in boxes or brls.	3	5
	Liquid, or starch polish, in glass, bxd. or in wood, O. R.	1	
	Sugar:		
	Maple or lemon	2	4
2174	N. O. S. in boxes or brls. or in sacks or bags other than paper	4	5
	Syrup, including rock candy, syrup and molasses:		
	In cans, not packed O. R.	D 1	
	In tin cans, jacketed, O. R.	1½	5
	In glass or jugs, boxed, O. R. of leakage	2	5
	In pails, O. R. of leakage	D 1	5
	In barrels, kegs, or kits, O. R. of leakage	4	5
	In tin kegs, flat tops, inclosed in veneer jackets	4	5

Groceries—concluded.

	L. C. L.	C. L.
In cans (square or round) boxed or in barrels, O. R.	4	5
For description of packages entitled to be rated as kits, see Kits.		
Syrup, for flavoring, O. R.	1	
Tapioca bxd. or in bags	1	
Tea	1	
Tripoli	2	3
Vermicelli, boxed	1	
Yeast cakes, crumbs or powders	3	4
Yeast, liquid	1	
Gums:		
Copal, shellac or kowrie	2	
Gum chicle, in sacks	1	4
Gums, N. O. S., O. R.	1	
Guttering, N. O. S.:		
O. R	1	4
Nested, boxed, or crated, O. R.	2	4

H.

Hair, curled:			
	In bales	1	
2175	In sacks	D 1	
	In sacks, two or more sacks pressed and bound together	1	
Hair, hogs and plastering:			
	In paper sacks, machine compressed, in solid bundles.	3	5
	In sacks	1	5
	In barrels	2	5
	Pressed in bales	3	5
Hammocks:			
	In boxes	1	
	In bundles	1½	
	In bales	1	
Hammock-spreaders		3	
Hammock stands, K. D. in bundles or crates		..	2

Handles.

Handles:			
	Axe handles:		
	In bundles	2	A
	In boxes or crates	4	A
	Broom handles, in bundles	4	A

	L. C. L.	C. L.
Handles, of wood, N. O. S.:		
In bundles	3	A
Boxed or crated	4	A
Mop handles:		
In bundles	3	
In boxes or crates	4	
Hardware, N. O. S.	2	
Harness and saddlery:		
Bridge pads, boxed	2	
Fly-nets, in bdls., boxes or bales, O. R.	1	
Hames:		
Wood, in bundles	2	A
Wood, in boxes	4	A
2176 Iron, tinned or japanned, boxed	4	A
N. O. S., in bundles or boxes	2	A
Harness:		
N. O. S., in bundles, boxes or bales O. R.	1	
Steel	2	
Horse collars:		
Racked or in bundles, O. R.	1	
Boxed	2	
Ink, harness, in tin cans, boxed	2	
Rough elm fork, for saddletrees:		
In bundles	2	
In boxes or crates	3	
Saddlery hardware	2	
Saddlery, N. O. S., boxed	1	
Saddles, in bales or boxes	1	
Saddletrees	1	
Stirrups:		
In boxes or crates	3	
Wooden, in bdls. or sacks, O. R.	2	
Stitch-horses:		
Set up	1	
K. D.	2	
Sweat-collars or sweat-pads, bxd. or in bales	2	
Whips, whip handles, and whip stocks, N. O. S.:		
In bundles, O. R.	1½	
Boxed	1	
Whip stocks, wooden:		
In bundles	1	
In boxes or crates	2	

2177

	L. C. L.	C. L.
Hats:		
Hats and caps (including straw bonnets and caps):		
In boxes	1	
In trunks	D 1	
Hay and straw:		
Hay and cane fodder:		
Bales, but not pressed, O. R.	1½	
Baled and pressed, O. R.	3	
Baled and pressed, O. R. of fire	..	C
Hay and straw, O. R. of fire	..	C
Straw:		
Baled, but not pressed	1½	E
Baled and pressed, O. R.	3	E
O. R. of fire	..	E
Heaters, cream, milk, and water, crated	3	5
Herbs:		
Dried, N. O. S., in pkgs	1	
Of less value that 10 cents per lb., pressed in bales	..	3
Deer tongues, in bales or brls	3	
High explosives will be subject to local rules and rates of roads transporting same.		
The right of any railway companies adopting this classification to refuse to receive high explosives for transportation under any circumstances is reserved.		
Hods, mortar and brick	2	
Hog racks, K. D. in bundles	1	A
Honey:		
In pails	D 1	
In cans, boxed, O. R.	2	
2178 In kegs, O. R.	2	
In brls. or casks, O. R	3	
In comb, boxed, O. R.	1	
Honey in comb, not boxed not taken.		
Honey beans or St. John's bread	2	
Honey-box lumber	3	D
Hops	2	
Hose, leather, rubber, or canvas:		
N. O. S., O. R. of chafing	1	
Boxed	2	
Hose-reels, garden or lawn:		
S. U.	D 1	
K. D.	1	

		L. C. L.	C. L.
	Household goods, including personal effects:		
	In boxes or barrels, released to valuation of five ($5.00) dollars per 100 lbs. in case of loss or damage, and so declared on shipping ticket or bill of lading by shipper, prepaid or guaranteed	1	B
	Not in boxes or barrels, including second-hand furniture, chairs, stoves, etc., released to valuation of five ($5.00) dollars per 100 pounds in case of loss or damage, and so declared on shipping ticket or bill of lading by shipper P. P. or gtd	1	B
	Household goods prepaid or guaranteed, not conforming to the above requirements	1½	A
	NOTE.—Shipments of trunks filled with goods should not be accepted unless boxed, strapped, and released.		
2179	House-movers' outfits, second hand	..	A
	Husks, in bales	3	C
	I.		
	Ice, prepaid	1	E
	NOTE.—Ice furnished by shippers for preservation of freight loaded in refrigerator cars not to exceed 3,000 pounds, free.		
	Ice-cream freezers:		
	L. C. L.	1	
	Min. wt. 16,000 lbs.	..	3
	Ice-pans, iron, used in connection with ice-machines... (See also machinery—ice-machines.)	D 1	
	Incubators and brooders, O. R.	1	A
	Insect powder, O. R.	1	
	Instruments, scientific, boxed, released	D 1	
	Insurance house plates, boxed	3	
	Iron and steel articles:		
	Anchors	4	
	Angle iron	4	5
	Band iron	4	5
	Bar iron	4	5
	Boiler iron	4	5
	Boiler plates (bent or straight)	4	5
	Rod iron	4	5
	Skelp iron	4	5
	Tank iron	4	5
	Angles, beams, columns, girders, channels, ties, piling, plates, O. R. of breakage	4	5
	Anvils	4	
	Anvils and vices, combined, O. R.	2	

Iron and steel articles—continued.

		L. C. L.	C. L.
2180	Architectural iron, N. O. S.:		
	O. R.	1	4
	Boxed or crated	3	4
	Axles, N. O. S.	3	5
	Bag-holders, boxed	2	
	Barrels, N. O. S. not less than 75 lbs. each, O. R.	1	
	Bed-rails fastenings, in kegs	4	5
	Blind hinges, bolts, gate hinges, hooks, rivets, staples, strap hinges, washers and nuts, iron, in boxes, kegs, or barrels	4	5
	Boiler fronts and manwhole covers, pressed steel (crabs and bolts boxed)	3	5
	Bolts, over 24 inches in length, in bdls	4	5
	Borings	..	D
	Brackets, in brls. and boxes	2	5
	Brackets, sash-cord pulleys, spring hinges, and stove-cover lifters, packed	..	5
	Butts	4	
	Castings or forgings:		
	Not machine finished, light (under 100 lbs. each) loose O. R.	1	5
	Plain and heavy (each 100 pounds or over) not machine finished, except being drilled with bolt-holes, O. R.	4	5
	Not machine finished except being drilled with bolt-holes, in boxes or casks	4	5
	Ceiling, in boxes or crates, O. R.	5	5
	Chain, N. O. S.:		
	Boxed	4	
2181	In barrels or casks	4	5
	Loose	2	
	Cable chain	4	
	Provision for iron cable chain is applicable on iron chain of not less than one-half inch (diameter of iron) size.		
	Coal drills, bxd	2	
	Coal tipples	3	
	Corrugated, galvanized, hoop, and sheet iron:		
	C. R. of damage by wet	1	
	Released	4	5
	Cotton-bale ties	4	5
	Crestings:		
	Crated	3	
	Boxed	4	

Iron and steel articles—continued.

	L. C. L.
Crushed steel, in brls. or kegs	4
Cylinder casings, pressed steel	3
Dog-irons, in boxes or bundles	2
Drift bolts or spikes:	
In brls. or casks	4
In bulk	..
Drive-well points, boxed	2
Dust-arresters and blow-pipe, galvanized iron, O. R.	3 t 1
Facings or fronts O. R.	3
Feed-boxes:	
N. O. S.	2
Nested, crated	3
Flexible clasps, in boxes	3
Fountains:	
O. R.	1
Boxed, O. R.	2
2182	
Gratings, window:	
N. O. S.	3
Taken apart and tied in bundle	4
Grease extractors and cylinders, parts of:	
Weighing 100 lbs. and over	4
Weighing less than 100 pounds, loose	1
Weighing less than 100 pounds, bxd	2
Hay-bale ties, iron or wire	4
Hay racks:	
In bundles	2
Nested in bundles	3
Heads and filter plates, cast for linseed-oil presses, each weighing 100 pounds or over	4
Hinges, spring, in boxes	2
(See also iron brackets.)	
Hitching weights:	
Loose	1
In boxes or casks	4
Hooks, swans or lug	2
Hoops, in bundles, boxed or crates	4
Hoops	..
Horse and mule shoes, actual wt.	4
Iron blooms and muck or puddle bars	4
Iron, pig	4
Iron, scale	..
Iron, work for elevator enclosures, boxed or crated	3

Iron and steel articles—continued.

		L. C. L.	C. L.
	Jacks, jack screws and levers:		
	Loose	3	
	Boxed	4	
2183	Lag-screws, in kegs or brls	4	5
	Lamp-posts, O. R	2	4
	Measures:		
	N. O. S	1	4
	Closely nested	3	4
	Ore chutes	4	5
	Pails, wash-tubs, water buckets, galvanized sheet iron, closely nested, O. R	3	4
	Picket pins:		
	In bundles, O. R	2	5
	In barrels, O. R	3	5
	Pile-driver hammers	4	
	Pipe fittings, boxed	4	
	Pipe moulds, used in casting pipe	4	5
	Planished iron:		
	N. O. S., C. R	D 1	
	N. O. S., O. R	1	4
	Packed in metal cases, with wooden covers, C. R. of damage by wet	1	
	Packed in metal cases, with wooden covers, O. R., released	4	5
	Portable houses, K. *O.*, flat bxd. or crated	3	B
	Pulleys, sash-cord, in bxs. kegs or brls. (See also iron brackets.)	2	5
	Pyrites:		
	Rods for wagon gates, in boxes, brls., or casks	4	5
	Russia iron:		
	C. R	D 1	
	O. R	1	4
	Safety balls, in drums or casks	4	
	Sash, K. D. in pieces, released	4	
2184			
	Sash weights:		
	O. R	2	C
	Strung on cord, or in barrels or boxes O. R	4	C
	Scrap iron, in bxs., brls., or hhds	4	D
	Scrap iron, in bulk. (See also junk.)	..	D
	Shingle bands, packed	4	

Iron and steel articles—concluded.

	L. C. L.
Shipping staples (made of sheet iron), in boxes or barrels	4
Shutters	3
Siphons, cast iron, and connections	4
Sleigh shoes, O. R.	3
Smoke-houses, portable	1½
Smokestack, iron, cut in shape, nested, boxed or crated	3
Spiegel iron	4
Stall guards	2
Steam-chests casings, pressed steel	3
Stair-work:	
Balusters, hand rails, newel posts, risers, stringers, treads	4
Swage blocks	3
Tank shells for fitters	3
Toe calks, boxed	3
Tops, rods and plates for limekilns	4
Trucks, ginders and chain for travelling cranes	..
Tumbling barrels, iron, without pulleys, K. D.	3
Turn-buckles, in kegs or brls	4
Vises	2
2185	
Wagon skeins and boxes:	
O. R.	3
In boxes, barrels, and casks	4
Wall ventilators, galvanized iron, boxed or crated	2
Gratings, cast iron, for wall ventilators, boxed	4
Wedges, boxed	4
Wheels and axles for push-carts	3
Iron sponge	4
Ivory	1
Ivory, black	1

J.

Japanned iron, N. O. S. in sheets, flat, boxed	2
Japanned ware	1
Jewelers' sweepings and tailings	1
Junk, consisting of scrap metal, (brass, copper, iron, lead and zinc), scrap tin, bones, hoofs, horns, old empty barrels or tierces, old rubber, old leather, old rope, paper scraps, rags, broken glass, mixed car-loads only	..

K.

Kennels, dog, S. U. (min. wt. 10,000 lbs.)	1½
Kennels, dog, K. D. (min. wt. 10,000 lbs.)	2

	L. C. L.	C. L.
Kettles, ash, chaldron, feed, sugar:		
C. R.	1	
Released	3	
Brewers' kettles, copper or steel:		
O. R.	1	
In boxes or barrels, O. R.	2	
Iron stucco kettles	..	5
2186		
Steam-jacket kettles for rendering:		
C. R.	1	
Released	3	
Tar kettles:		
Set up	1½	
Taken apart	1	
Kilns, lumber-drying:		
K. D. packed	3	
K. D. and fixtures	..	A
KITS—The packages referred to as "kits" in this classification should meet the following requirements, viz: Bottoms to be set into grooves in the staves, tops fastened as above, or set on shoulder cut in the staves, and securely fastened thereon, covers not to project above the tops of the staves.		
Kraut	4	5
Kraut, pickled, may be loaded in mixed car-loads with pickles at fifth-class rate (see preserves).		
L.		
Labels, in crates or boxes, P. P. or guaranteed	1	
Lacquered ware	1	
Ladders:		
Ladders, step, completely K. D. and tied in bundles	..	A
Step-ladders, step-ladder and chair combined, and step-ladder and ironing board combined:		
O. R. (min. wt. 10,000)	1	3
O. R. in bundles (min. wt. 10,000)	1	3
2187 O. R. in crates or boxes (min. wt. 10,000)	2	3
Ladders, N. O. S., painters' scaffolds and carpenters' folding extension horses:		
Not over 18 feet long, in bdls., O. R. (min. wt. 10,000 lbs.)	1	3
Over 18 feet long and not exceeding 30 feet in length O. R. min wt. 10,000 lbs	D 1	3

(See also wooden ware.)

	L. C. L.	C. L.
Ladles, iron or steel	3	
Lamp and carbon black, in brls. or casks	1½	3
Lamp chimneys, in boxes, barrels, casks or crates, O. R.	2	4
Lamps and lamp fixtures, N. O. S., in boxes, barrels or hhds., O. R	1	
Lamps, lamp fixtures, and lanterns, not packed, not taken.		
Lamp frames, street glazed or unglazed, crated, O. R	D 1	
Lamp-post, bronze	2	4
Lanterns, in bxs., brls., casks, or crates, O. R	1	4
Lath, metal, (including wire, expanded steel, and perforated iron)	2	4
Lath, wire, and fastenings	..	4
Lawn-mowers, boxed	1	A
Lead articles:		
Bar pipe or sheet lead:		
N. O. S	2	5
In boxes or casks	4	5
Bar lead, in sacks	4	5
Pig lead	4	5
2188 Scrap lead, in boxes, casks and sacks (see also junk)	4	5
Bases for stereotype plates, bxd	4	
Glazier's lead on reels	4	
Granulated lead, in sacks	4	
Lead dross, in brls. or casks	4	D
Lead washers, boxed	4	
Sash weights, lead, strung on cord, or in brls. or bxs.	4	5
Sublimate of or sublimed lead	4	5
Leather and articles of:		
Cut soles, counters, heels, tops	2	4
Leather, in rolls or boxes	2	4
Leather scraps:		
In bundles	3	4
In barrels, boxes or bags	4	4
Leather, loose	1	
Leather, scraps, shavings, and skivings:		
In boxes, barrels or bags	4	
C. L.	..	D
Ratings given on leather scraps are applicable on trimmings cut from side leather or obtained in the manufacture of leather goods.		
Leather tufts, packed	1	
Leather, old N. O. S. (see also junk)	..	D

	L. C. L.	C. L.
Licorice:		
Stick, root or powder, in boxes or brls., O. R.	1	
Mass, in boxes	3	4
Root, in bales or sacks	1	
Life-preservers cork, in packages securely tied in bundles	1	
2189		
Lightning rods and fixtures, copper or combination copper and iron:		
In bdls.	2	4
In boxes	3	4
Lightning rods and fixtures, iron:		
In bundles	3	4
In boxes	4	4
Lime:		
In barrels	4	
In barrels or in bulk, C. L., min. wt. 24,000 lbs.	..	C
Limestone, ground, in barrels	4	C
Linseed meal	4	C
Liquors and liquids:		
Ale, including malt, ale and porter	3	5
Provision for ale in section providing for ale and porter is applicable on the malt liquor and not on ginger ale.		
Beer, in wood, at O. R. of leakage, freezing and fermenting, and at the following estimated weights: Shipper may load 3,000 lbs. of ice, or 2,000 lbs. of hay, straw and sawdust, where no ice is used for, preservative; where ice and hay, straw and sawdust are used, total weight not to exceed 3,000 lbs.; excess to be charged at same rates.		
Whole barrels, 350 lbs.		
Half barrels, 180 lbs.		
Quarter barrels, 100 lbs.		
Eighth barrels, 50 lbs.		
In quantities less than C. L.	3	5
2190 Beer, beer tonic and hop-tea tonic, in bottles, packed, at following estimated weights:		
Two dozen quarts, per case 90 lbs	..	5
Two dozen quarts, packed in sawdust, per case 100 lbs	..	5
Four dozen qts., packed in sawdust, per case 200 lbs	..	5
Two dozen pts., per case, 55 lbs	..	5

Liquors and liquids—continued.

	L. C. L.	C. L.
Two dozen pts., packed in sawdust, per case, 65 lbs.	..	5
Three dozen pts., per case, 85 lbs	..	5
Three dozen pts., packed in sawdust, per case, 100 lbs	..	5
Four dozen pts., per case, 100 lbs	..	5
Four dozen pts., packed in sawdust, per case, 125 lbs	..	5
In casks containing six dozen qts., or 10 dozen pts., 250 lbs. each	..	5
In quantities less than C. L	3	5
Beer, in bottles, put up in pasteboard cartons, packed in boxes having no lids, released	3	5
Boiler compound, in barrels or casks, or in cans, boxed	3	A
Cider (apple) and cider syrup (apple or orange):		
In wood, O. R., leakage and freezing	4	5
In wood, and apples, O. R	..	5
Cider (apple) and cider syrup (apple or orange):		
In bottles, packed, O. R	2	3
2191 In mixed car-loads with mineral water	..	5
Disinfectants, fluid, in barrels, O. R	2	
Egg compound, O. R	1	
Embalming fluid:		
In glass or jugs, boxed, O. R. B	1	
In brls., or kegs, O. R. L	4	
Ginger ale	3	5
Liquid bread, in bottles, packed, O. R	1	
Mineral water (plain, carbonated, and flavored) Malto and Ky-Lo:		
In bottles and carboys, cans or stone jugs, packed, O. R., released, P. P. or guaranteed	3	5
In wood, O. R., released, P. P. or guaranteed	4	5
In mixed car-loads with ginger ale	..	5
Mineral water, in tank cars furnished by shipper	..	5
Nerve food, liquid, packed in cases, O. R	1	
Soda water, in glass, packed in bxs. or brls., or in metal retainers, O. R	3	5
Tonics, N. O. S	1	
Turpentine:		
In glass, cans or stone jugs, in open boxes, kegs or jackets, O. R	D 1	
Turpentine, in glass cans, or stone jugs, not packed not taken.		
In cases or in cans (square or round), boxed or in tin kegs, flat tops, inclosed in veneer jackets, O. R.	1	5

Liquors and liquids—concluded.

	L. C. L.	C. L.
In barrels, O. R. of leakage	2	5
In tank cars furnished by shipper	..	5
192		
Vinegar:		
In wood, O. R	4	5
In bottles, packed, O. R	1	
Wine, in baskets (original packages), corks secured by wire, O. R	1	
Wine and whiskey:		
In baskets, N. O. S., O. R	D 1	
In demijohns, packed, N. O. S	D 1	
In demijohns, boxed	1	
In glass, cans or jugs, packed in open boxes, kegs or jackets, O. R	D 1	
In glass, cans or jugs, completely inclosed in boxes, kegs or jackets, O. R., released	1	
In square or round cans, boxed, O. R., released	1	
In wood, O. R., of leakage	1	
In wood, on basis of twenty ($20.00) dollars per barrel valuation, and so receipted for, O. R. of leakage	2	3
Wine and whiskey, in glass, cans, or jugs, not packed not taken.		
Witch hazel:		
In glass, packed in brls., or bxs., O. R	1	
In bulk, in bbls., O. R	2	
Liquors and liquids, N. O. S., including alcohol, bitters, cologne spirits, high wines, and polishing compounds (liquid):		
In glass, cans or jugs, packed in open boxes, kegs or jackets, O. R	D 1	
In glass, cans or jugs, completely enclosed in boxes, kegs or jackets, O. R., released	1	
193 In glass, cans or jugs, not packed, not taken.		
In square or round cans, boxed, O. R., released	1	
In wood, O. R. of leakage	1	
In wood, on basis of twenty ($20) dollars per barrel valuation, and so receipted for, O. R. of leakage	2	3

	L. C. L.	C. L.
Live stock:		
Ratings given below are based upon declared valuations by shippers, not exceeding the following:		
Each horse (gelding or mare) or pony, mule, stallion or jack	$100.00	
Each ox, or bull	$50.00	
Each cow	$30.00	
Each calf	$10.00	
Each hog	$10.00	
Each sheep or goat	$3.00	
Where the declared value exceeds the above an addition of 25 per cent. will be made to the rate for each 100 per cent. or fraction thereof of additional declared valuation per head; animals exceeding in value $800.00 per head, will be taken only by special arrangement.		
Live stock in car-loads (limited liability) under contract	See tariff	
NOTE.—Live stock transported in special or palace live-stock cars will be charged as follows:		
In cars not exceeding 30 ft. in length (internal measurement), 120 per cent. of tariff rate. For each additional foot or fraction thereof in excess of 30 feet in length, (internal measurement) an additional charge of 3 per cent. per foot or fraction thereof, will be made.		
2194		
For example: Live stock in a palace car 36 feet in length (internal measurement) will be charged 138 per cent. of tariff rate; live stock in a palace car 40 feet in length (internal measurement) will be charged 150 per cent. of tariff rate; live stock in a palace car 50 feet in length (internal measurement) will be charged 180 per cent. of tariff rate; it being optional with any railway com- to receive cars exceeding 34 feet in length.		
Live stock, L. C. L. (limited liability under contract), at actual weights, but not less than the following estimated weights, viz:		
One horse (gelding or mare) or pony, mule or horned animal, 2,000 pounds; two animals, 3,500 pounds; three, 5,000 pounds; each additional animal, 1,000 pounds	1	
Bull, 2,000 lbs. each (be sure and take released)	1	
Burros, 750 lbs. each	1½	
Calves (under one year), 500 pounds each	1½	

Live stock—concluded.

		L. C. L.	C. L.
2195	Colts (under one year), 750 pounds each	1½	
	Cow and calf together, 2,500 pounds	1	
	Goats, in crates, estimated weight 200 lbs. each	1½	
	Hogs, actual weight	1½	
	Mare and colt (colt under one year old), together 2,500 lbs.; each additional colt (under one year old) 500 pounds	1	
	Sheep, 200 lbs. each	1½	
	Stallions or jacks, 3,000 lbs. each (be sure and take release)	1	
	Lorgnettes, boxed, O. R.	D 1	
	Lubricants, N. O. S.	3	5
	Lumber and manufactures of:		
	Backing for pictures	3	B
	Banana box material (cottonwood veneers and heading)	3	See lumber tariff
	Blinds, doors, and sash, glazed with common window glass or unglazed (if glazed, released):		
	Common pine	4	B
	Other than common pine	3	B
	Balustrade work	3	B
	Blocks (base, centre, corner and head)	3	B
	Blind frames	3	B
	Carpenters' moulding	3	B
	Casings	3	B
	Closet and pantry fittings (wood)	3	B
	Columns	3	B
	Corner beads	3	B
	Cornice brackets	3	B
	Frames, door, window, and screen	3	B
2196	Gable ornaments	3	B
	Hand rails	3	B
	Paneling	3	B
	Pilasters	3	B
	Porch-work	3	B
	Scroll-work	3	B
	Stair-work, K. D. (newels, risers, treads, railings, balusters, and post ornaments)	3	B
	Window stools and aprons	3	B

NOTE.—Above L. C. L. ratings will apply on the articles named when shipped with car-loads of lumber and specified upon shipping orders and bills of lading. When not so specified, first-class rating is applicable.

Lumber and manufactures of—continued.

		L. C. L.	C. L.
	Lumber, including ceiling, flooring, wainscoting, may be loaded in mixed car-loads with articles above enumerated at class "B" rates.		
	Sash or doors, if glazed with glass other than common window glass, released	1	
	Blocks, butchers'	4	A
	Box lumber, in racks or bundles	3	See lumber tariff
	Rating given on box lumber is applicable on lumber cut to length for boxes, not further manufactured.		
	Brackets, wooden, N. O. S.	1	
	Cigar-box lumber, not cut in shape	3	See lumber tariff
2197	If veneered, will take same rating in C. L. as the lumber from which the veneering is made.		
	Counters and shelving for stores, offices and saloons (not including mirrors):		
	N. O. S. released	D 1	A
	K. D. (in sections not over 16 feet in length) released	1	A
	In mixed car-loads with sash, doors and blinds	..	A
	Counters, sectional, including cast-iron pilasters, completely taken apart and packed flat	3	
	Eave troughs, wooden, O. R.	2	C
	Fanning mill, material, wood, in rough	3	C
	Frames, wooden, for water-closet seats, sinks and urinals	3	B
	Guttering, wooden, rough, in bundles	2	See lumber tariff
	Hard-wood rollers, for house-moving:		
	Loose	2	A
	Boxed or crated	4	A
	Houses, permanent, in sections	..	B
	Houses, portable, K. D.	3	B
	Provisions for portable houses and permanent houses is applicable on lumber material for same only, including articles enumerated at class "B" rates, under the head of "blinds."		
	Lamp posts, wooden	3	B
	Lath, pine	4	See lumber tariff
2198	Lumber (except foreign woods of value; mahogany, rosewood, lignumvitæ and other valuable foreign woods)	4	See tariff

Lumber and manufactures of—concluded.

	L. C. L.	C. L.
Logs:		
Market offices, in sections	3	B
Mattress-frame material, wood	3	C
Pickets, wooden	4	See lumber tariff
Piles	4	See lumber tariff
Pipe, water, wooden, N. O. S.	3	C
Pipe, wooden, for enclosing steam pipe	..	C
Print shelves and dry-goods cases or racks:		
S. U., wrapped, crated or boxed	1½	A
K. D., in bundles	3	A
Sawdust:		
In packages	4	E
C. L.	..	E
Shavings, N. O. S., in packages	4	E
Sheathing and lath, combined	3	B
Shingles	4	See lumber tariff.
Stairs, set up, released	D 1	
Veneering:		
Basswood, birch, California redwood, elm and laurel, unfinished, in bundles, boxes or crates:		
O. R.	3	C
N. O. S., boxed	2	
N. O. S., not boxed, O. R.	D 1	
Watering troughs, wooden	2	
Wood bolts for staves, shingles, or excelsior	4	E
Wooden mats and flooring	3	B
2199 Woods of value, (foreign) viz: mahogany, rosewood, lignumvitæ, and other valuable foreign woods	2	3
Woods, turned, N. O. S., including dowel pins:		
In bags	2	A
In bdls	3	A
Boxed	4	A

M.

Machinery and machines O. R., released, as follows:		
Automatic machines for registering weight, height, strength and lung power, and for delivery on confectionery and similar purposes, N. O. S., boxed	1½	
Opera-glass boxes, metal and attachments, for opera-houses, boxed	2	
Belting, cotton, leather, or rubber O. R.	2	
Blowers, blacksmiths', crated	2	
Blowers, iron, rotary	2	A

Machinery—continued.

	L. C. L.
Boilers, loaded and unloaded by owner:	
10 feet and under in length	3
Over 10 and under 30 feet in length	1
30 feet long or over	1½
Boiler-makers' rolls:	
Set up	2
K. D.	3
Brick and tile machines	2
Bran-dusters:	
Set up	3 t 1
Boxed	D 1
K. D., boxed or crated	1
2200	
Broom-sewing machines:	
Set up	1½
K. D. in pieces	1
Completely K. D. and boxed	2
Button-fastening machines:	
Set up	1½
K. D. in pieces	1
Completely K. D. and boxed	2
Clay-crushing machines	2
Clay-pulverizing and stone-separating machines, crated	2
Coal-drilling machines, hand, K. D. tied in bundles, O. R.	1
Cotton gins	3
Feeders and condensers	1
Feeders and condensers, min. wt. 15,000 lbs.	3
Cotton-gin drivers	1
Cupolas, gas	3
Cupolas, foundry:	
Set up	1½
K. D., in pieces	1
Cups, self-oiling (for machinery), boxed	1
Ditching machines	1
Dog powers	1
Elevator buckets or boots, tin or iron:	
Tied in bundles or crated	2
Nested, completely boxed	3
Engines:	
Lawn, min. wt. 1,000 lbs. each	1
Steam, K. D. (to be loaded and unloaded by	

Machinery—continued.

		L. C. L.	C. L.
2201	owner) the light and easily breakable and detachable parts removed and boxed	1	A
	Caloric and gas, boxed, O. R. released	1	
	Evaporators:		
	N. O. S.	D 1	4
	Fruit	1½	4
	Fruit, K. D. flat, crated, released	2	4
	With steamers, feed	..	4
	Floor-dressers	1	A
	Flour-packers	2	A
	Flour-mill machinery as follows:		
	Aspirators, belting, boilers, bran-dusters, conveyors, dressers, dressed pine, lumber, elevator buckets, engines, grain cleaners, packers, pulleys, purifier, reels, roller mills, scourers, separators, shafting boxes, shafting, smut machines, wheels	..	A
	Folding machines, crated or boxed	2	
	Forges, portable	2	
	Gas-exhausting machine (combined steam-engine, governor and exhauster) light and easily breakable parts removed and boxed	1	A
	Grain-cleaning machines, N. O. S.	1	
	Grain-conveyors, and fixtures (fixtures must be boxed)	2	5
	Grain-weighing machines, and conveyors combined, iron parts removed and boxed, wood parts crated	2	5
	Hemp and shingle machines	1	
2202			
	Hoisting machines, freight and passenger:		
	Set up	D 1	A
	Parts of:		
	Cylinders	3	A
	Lumber	3	A
	Nuts and bolts, boxed	4	A
	Weights	4	A
	Wheels, and gearing	1	A
	Wire and other rope	4	A
	Parts of, N. O. S.	1	A
	Hoisting machines, N. O. S.	1	A
	Ice machines and iron pans for same	..	A
	Iron balance or water wheels	2	
	Iron link belting, in boxes or casks	4	5
	Knitting machines	1½	

Machinery—continued.

	L. C. L.	C. L.
Laundry machines:		
In frame, or set up	1½	A
K. D. in pieces	1	A
Completely K. D. and boxed	2	A
Laundry machinery, consisting of:		
Belting	..	A
Boiler	..	A
Clothes-drying closets, K. D.	..	A
Engine	..	A
Filters	..	A
Hangers	..	A
Heaters, steam, gas and sad-iron heaters, used in laundries	..	A
Ironing machines	..	A
Mangles	..	A
Pipes and connections	..	A
Pulleys	..	A
Pumps	..	A
2203 Shafting	..	A
Smokestack	..	A
Starching machines	..	A
Starch kettles	..	A
Stationery tubs	..	A
Steam-power wringers	..	A
Tanks	..	A
Washing machines (steam power)	..	A
Looms	D 1	A
Machines for shearing iron:		
Set up	2	A
K. D.	3	A
Meat choppers or cutters:		
Set up	1	
K. D. boxed	2	
Middlings, purifier:		
Set up	3 t 1	A
Boxed	D 1	A
K. D. (hooks and pulleys detached) boxed or crated	1	A
Milk-shakers:		
Set up, crated or boxed	1¼	
K. D. boxed	2	
Mills:		
Portable (burr-stone)	1	
Coffee, boxed	2	4
Drug, boxed	2	

Machinery—continued.

	L. C. L.	C. L.
Bark mills	2	A
Grain mills	2	A
Hominy mills	2	A
Paint mills	2	A
Rating given on grain mills is applicable on grain-grinding mills and not on grain-cleaning machines		
2204 or fanning mills, which are specifically provided for.		
Quartz mills	2	A
Roller mills	1	
Provisions for roller mills is applicable upon all kinds of roller mills, in distinction from grain-grinding mills.		
Paging and numbering machines, taken apart, parts boxed or crated	1	A
Pile-driving machines, N. O. S	..	A
Pillow, post and journal boxes, hangers and couplings:		
Under 100 pounds in weight	1	
Weighing 100 pounds and over	4	
Boxed, or in brls. or casks	4	
May be loaded with iron shafting in mixed, C. L. at fifth-class rates, and with machinery at the same rate as the machinery.		
Pitch machines	D 1	A
Poison-distributing machines:		
Set up	1½	
K. D. in pieces	1	
Completely, K. D. and boxed	2	A
Portable saw-mills	1	A
Power hammers	2	A
Presses:		
Broom	1	A
Broom-corn	1½	A
Cider	2	A
Cotton, K. D	3	A
Lard	2	A
2205		
Printing:		
N. O. S	1	A
Boxed	2	A

Machinery—continued.

	L. C. L. C
Pulleys, N. O. S. smooth-faced or grooved wheels used in connection with shafting and belting for transmission of power:	
Loose	1
Boxed	2
When loaded with machinery, in mixed car-loads, same rates as the machinery.	
Punching machines:	
S. U.	2
K. D.	3
Purifier, boilers, water, including steam-jacket heaters and condensers:	
10 feet and under in length	3
Over 10 and under 30 feet in length	1
30 feet long or over	1½
Reels, centrifugal	1
Road-making machines:	
S. U.	1½
K. D.	1
Rock-crushers and revolving screens	2
Rollers, iron:	
For roller mills, heavy, cast, boxed	4
For wire mills:	
Boxed	4
C. L.	..
Saw-mill machinery	..
Sewing machines:	
S. U. or K. D. boxed or racked	1
Not boxed or racked not taken.	
2206	
Parts of:	
Attachments N. O. S., boxed	1
Castings, boxed	3
Castings, bundles	1
Heads, boxed	1
Woodwork, boxed, racked or wrapped	1
Sewing machine, woodwork boxed, racked or wrapped	..
Shafting iron:	
Without wheels	4
Wrought or cast with wheels or pulleys attached	1

Machinery—concluded.

	L. C. L.	C. L.
Shafting, iron, shipped with machinery in mixed car-loads, same rates as machinery:		
Shearing machines, N. O. S.:		
S. U	1½	
K. D. tied in bundles	2	
Shoes and dies, iron cast for stamp mills	4	5
Smokestacks	1½	A
Steam gauges, boxed	1	
Steam-separators, used to separate water from steam in steam pipes:		
Each weighing 100 pounds or over	4	
Each weighing less than 100 pounds	1	
Stills, cold-blast water, K. D	2	A
Stills, copper or iron, including worms	D 1	A
Street-sweeping machines:		
N. O. S	3 t 1	A
K. D., boxed	2	A
Tire-benders, iron	2	
Tire-shrinkers, iron	3	
2207 Tobacco cutters and press combined, (steam power), released	1	A
Tobacco presses, N. O. S	1	A
Tobacco resweaters:		
N. O. S	D 1	
With cast-iron parts of detached and boxed or crated	1	
Turbine water wheels	2	A
Valves, iron:		
N. O. S	1	5
Boxed	2	5
Water jackets for smelters	1	5
Wheels (iron) gear, plain and heavy, (100 lbs. each or over)	4	5
Wood-working machinery, on skids, all detachable parts removed and boxed	1	A
Machinery, N. O. S.:		
In frames or S. U	1½	A
K. D. in pieces	1	A
Completely K. D. and boxed	2	A
Machinery specified above (taking A rates in car-loads), blowers (iron rotary), boilers, engines, smokestacks, and tanks (wooden or iron)	..	A
Magnifying glasses, boxed, O. R	D 1	
Mail chutes, boxed	1	

	L. C. L.	C. L.
Mail boxes and fixtures, used in connection with mail chutes, boxed	2	
Manikins:		
Manikins, wood and metal, boxed, O. R	D 1	
Charts and manikins, anatomical, combined, boxed	1	
2208		
Mantels, wooden, (mirrors in packages), O. R.:		
Loaded in box cars	1	3
Loaded on flat cars	D 1	3
C. L., min. wt. 12,000 lbs	..	3
Mantels, iron, marble or slate (mirrors in packages):		
Boxed, released, loaded in box car	1	A
Boxed, released, loaded on flat car	D 1	A
C. L., released	..	A
Mantels, wooden, iron, marble or slate:		
Without mirrors	1	
C. L. min. wt 12,000 lbs	..	3
NOTE.—Grates may be loaded with mantles in mixed car-loads at same rates as the *the* mantles.		
Maps, boxed	1	
Marble dust	4	D
Match splints:		
In bundles	1	B
In boxes	3	B
Matches, released	1	3
Mats:		
Door, wire or steel, crated	2	4
N. O. S	1	
Matting:		
Cocoa and hemp	2	
N. O. S	1	
Merchandise, shippers are requested to give full description of the contents of packages. All articles described as "merchandise" will be charged double first-class rate.		
2209 Metal, pig, for electrotypers and stereotypers	3	4
Metal-workers' supplies:		
Bullion pots	3	
Clay furnaces, pail-shaped:		
Loose, O. R	1	5
In barrels or boxes, O. R	2	5
In crates, casks or hhds., O. R	4	5

	L. C.	L.	C. L.
Clay furnaces for assayers, O. R., boxed		2	
Corroding pots:			
Loose, O. R.		1	B
In bxs., brls., crates or casks, O. R.		2	B
Crucibles and scorifiers:			
Loose, O. R.		1	B
In barrels, boxes, crates or casks, O. R.		2	B
Lead retorts:			
Loose		1	B
In brls., bxs., crates or casks		2	B
Retorts:			
C. R.	D	1	B
Clay, O. R.		2	B
Iron, O. R.		4	B
Clay or iron, with fire brick and clay, mixed carloads		..	C
Slag-pots		3	
Sleeves, fireclay and plugs, for Bessemer converters		4	D
Meters, gas or water, boxed or crated, O. R.		1	
Mica		1	
2210 Mica, pulverized and mica dust, in barrels or bags, entirely at O. R. of all damage, excepting that occasioned by cars being wrecked		1	5
Millstones, O. R.		3	A
Milk-can stock:			
Sides boxed or crated, fully released against wet, rust and damage		4	
Millinery goods:			
Artificial flowers, in boxes, P. P. or guaranteed	D	1	
Feathers, plumes for hats and bonnets	D	1	
Feather tips for millinery purposes, boxed	D	1	
Hats and bonnets, trimmed	D	1	
Millinery goods, N. O. S.		1	
Straw braid		1	
Straw goods, N. O. S.	D	1	
Mineral wool		3	D
Minerals:			
Actinolite		4	
Agolite		4	B
Alum		3	4
Arsenic, crude, in kegs or brls		3	
Asbestos:			
In boxes, kegs, bags or bales		2	5
In barrels or casks		4	5

Minerals—concluded.

	L. C.	L.	C.	L.
Asphaltum		4	D	
Barytes		4	5	
Black lead, in barrels or boxes		2		
Chalk:				
In boxes		2		
In barrels or hhds		4		
French, powd., in bbls., or casks		4	5	
2211				
Clay:				
Common			..	E
Fire			..	D
Ground, in brls., casks or sacks		4	C	
Crayons, boxed		2		
Earth, fullers'		4	5	
Feldspar		4	5	
Flint, ground, in packages		4	5	
Fluorspar		4	D	
Gypsum		4	5	
Kaolin		3	5	
Kryolith		3	5	
Manganese ore		4	D	
Ore, iron		4	D	
Ore, N. O. S., released to valuation not exceeding one hundred ($100) dollars per ton	4	See special tariff		
Plumbago in bbls., or boxes		2		
Silex:				
In boxes, barrels or bags		4	D	
In bulk			..	D
Silica:				
In boxes, barrels or bags		4	D	
In bulk			..	D
Talc		4	5	
Terra alba		4		
Whiting		4	C	
Whiting and earth paint, dry			..	C
Zinc, ore			..	E
Models, plaster, anatomical, packed in boxes, barrels or casks, O. R. B.		1		
Mohair		1		
2212				
Moldings, and tenter frames and hooks:				
N. O. S.		D	1	
In bundles, released			1	

	L. C. L.	C. L.
Boxed	1	
Wrapped, or packed, released, minimum weight 10,000 lbs	2	
Money-changers (coin-holders), boxed	1	
Monuments, bronze and metal, boxed or released	1	
Mops:		
In bundles	1	
In boxes	2	
Mop racks:		
N. O. S.	D 1	
K. D. flat, boxed or crated	2	
Moss, in sacks, O. R. of fire	1	
Moss, N. O. S., pressed in bales O. R. of fire	2	5
Moss, wet	..	C
Mug cases and bases for same, boxed or crated	1	
Music, sheet, in boxes O. R	1	
Musical instruments:		
Band or string instruments, N. O. S., bxd., O. R	D 1	
Drums:		
N. O. S., boxed, O. R	4 t 1	
Taken apart, shells nested, all parts boxed	D 1	
Music boxes, boxed, O. R	D 1	
Musical instruments, N. O. S., boxed, O. R	1	
Musical-instrument cases, boxed, O. R	1	
2213 Organs, church or cabinet, and melodeons, bxd., O. R	1	
Organs, cabinet and melodeons, released, loaded and unloaded by owner, min. wt. 8,000 lbs	..	1
Organs, cabinet, and melodeons, L. C. L. not boxed, not taken.		
Pianos, boxed, O. R	1	
Pianos, not boxed, not taken.		
Piano cases in the white, K. D., flat, boxed or crated.	2	3
Piano legs, boxed, O. R	1	
Piano plates, cast iron, bxd., released	2	
Piano stools:		
O. R	D 1	
Boxed or crated, O. R	1	

N.

Nails:		
Hungarian nails, in bxs., brls. or kegs	2	
Iron nails:		
In bags	2	
N. O. S., in boxes	2	

	L. C. L.	C. L.
Horse, in boxes	3	5
Shoe, in boxes, brls., or kegs	2	
Wire, in boxes	3	
Wire, in bulk, in kegs, at actual weight, but not less than 106 lbs. per keg	4	4
Wire, in packages, packed in kegs	3	
Iron nails and spikes, N. O. S., in kegs, at actual weight, but not less than 106 lbs. per keg	4	5
Iron tacks and carpet nails in boxes or kegs	2	
2214 Nets and netting, N. O. S. in boxes	1	
Nickel railing, boxed, released	1½	
Nickel scrap	3	
Notions:		
Fans, boxed	1½	
Fire-crackers and fire-works, tightly boxed, released	D 1	1
Flags, mounted, boxed	1	
Notions, N. O. S. bxd., O. R.	1	
Pins	2	
Nursery stock:		
Bulbs, boxed, P. P	1	
Grafts, fruit tree, in bxs. or brls. O. R., P. P. or guaranteed	2	B
Grape cuttings, bxd., O. R., P. P. or guaranteed	2	B
Osage-orange plants, P. P	1	B
Plants, N. O. S.:		
In bales, O. R., P. P	D 1	
In boxes, O. R., P. P	1	
Trees, Christmas, P. P	1	C
Trees and shrubbery, O. R., charges P. P. or guaranteed, at carriers' option:		
Boxed, when same can be loaded in box or stock cars	3	B
Boxed, when too large to be loaded in box or stock cars	1	B
In bales, completely wrapped, each weighing 100 pounds or over	1	B
In bales, each weighing less than 100 pounds	D 1	B
2215 NOTE.—In no instance will the charges upon a shipment of bales, weighing less than 100 pounds each, exceed charges on same at estimated weigh of 100 lbs., each at first-class rate.		
Willow cuttings, in boxes or in bales	2	B

	L. C. L.	C. L.
Nuts, edible:		
Cherry stones, in brls., boxes or bags	3	
Cocoanuts, in boxes, bags, brls. or hhds	2	A
Cocoanuts nuts may be loaded in mixed car-loads with bananas or other green fruit at same rate as the fruit.		
Cocoanuts and nuts, edible	..	3
Hickory nuts	2	A
Nuts, edible, N. O. S.:		
In sacks	1	3
In boxes or barrels	2	3
Pecans	..	A
Peach stones, in brls., boxes or bags	3	
O.		
Oils:		
Burning fluid:		
O. R. of leakage	1	
C. R	3 t 1	
Butter color:		
In glass, boxed O. R	1	
In barrels, O. R	3	4
Camphene:		
O. R. of leakage	1	
C. R	3 t 1	
Coal-tar oil, in barrels	..	D
Cocoanut oil (in liquid or solid form) in barrels, O. R.	3	4
2216		
Cod-liver oil:		
In glass, boxed, O. R	1	
In barrels, O. R	3	4
Cotton-seed oil:		
In cans, boxed, or in barrels, O. R	3	5
In tank cars furnished by shipper	..	5
Gasoline, in tin cans, jacketed	..	1½
Lard oil:		
In barrels, O. R	3	5
In tin cans, boxed	..	5
Linseed oil:		
In brls. or cans, bxd., O. R	3	5
In tank cars furnished by shipper	..	5
Lubricating oil, N. O. S. in tin cans, boxed	..	4
Mineral soap stock, in wood, O. R	3	5

Oils, in glass, cans or jugs not packed, not taken.

	Oils—concluded.	L. C.	L. C.
	Oils, N. O. S.:		
	In glass or stone in open boxes or kegs, O. R.	D	1
	In baskets, O. R.	D	1
	In tin cans, jacketed, O. R. released		1½
	In tin kegs, flat tops, inclosed in veneer jackets		1
	In glass, boxed, O. R.		1
	In tin cans (round or square), boxed, O. R.		1
	In barrels, O. R.		3
	Oil residu-m, in wood, O. R.		3
	Olive oil, in glass, boxed, O. R.		1
	Petroleum and its oil products, including benzine, benzole, carbon, gasoline, lubricating and naphtha,		
2217	but exclusive of petroleum, axle grease and compound oils:		
	In iron brls. actual wt., O. R.		3
	In wood, at 400 pounds per brl., O. R.		3
	In half barrels, will be taken at actual weights.		
	In cases, at 80 pounds per case, O. R.		3
	NOTE.—Rating given for cases applies only upon petroleum oils in tin cans, boxed.		
	In tank cars furnished by shippers at $6\frac{3}{10}$ pounds per gallon, O. R.		..
	Pine oil, N. O. S., in wood		3
	Resin oil, in barrels, O. R.		3
	Wood-preserving oil (creasote and dead oil), in wood		4
	Oil cake		4
	Oil-cake meal		4
	Oil cloth:		
	Oil cloth, floor, and linoleum:		
	In boxes or crates, 12 feet or over in length		1
	In boxes or crates, under 12 feet in length		2
	Not boxed or crated, 12 feet or under in length, O. R.		1
	Not boxed or crated, over 12 feet in length	D	1
	Oil cloth N. O. S. in bxs., or crates		1
	Opera glasses, boxed, O. R.	D	1
	Ordnance stores, N. O. S.		1
2218			
	Ornaments:		
	Ornaments, metal, composition, earthenware, plaster of Paris, terra cotta and zinc, in boxes or casks, O. R. B., released		1
	Vases, ornamental, iron or other material for yards, N. O. S.:		
	O. R.		1
	Boxed O. R.		2
	Ox bows and yokes		2

P.	L. C.	L. C.
Packing:		
Asbestos packing, in rolls or boxes	4	5
Asphaltum boiler covering	4	5
Boiler felting	2	
Boiler covering (made of sheep's wool and cement)	4	C
Boiler covering, mineral wool	4	5
Felt, hair, in bales, released	2	3
Fossil meal, in bags	2	5
Packing, hemp	3	
Packing, jute	3	B
Packing, rubber, metallic and soapstone, in boxes or bundles	2	
Pipe covering:		
Asbestos, in rolls or boxes	4	5
Cattle's hair:		
In sacks	1	5
In barrels	2	5
Pressed in bales	3	5
Felt	2	
Mineral wood	4	4
2219		
Packing-house products:		
Beef:		
Dried, loose	1	5
Dried, in sacks	2	5
Dried, in boxes, barrels or crates	4	5
Fresh, O. R., P. P. or guaranteed	1	3
Mixed car-loads of dressed beef and other packing-house products	..	3
Pickled	4	5
Bladders:		
Dry, flat, in boxes or barrels	1	
Pickled, in barrels or tierces	4	
Bones:		
In sacks or barrels	4	D
C. L. (see also junk)	..	D
Bristles	1	
Cracklings, in packages, (see also hides)	4	5
Evaporator tank, water	..	E
Glue stock:		
In brls. or hhds	4	D
Green, in sacks, not taken.		
Dry, in bundles	1	
Scrap, (dry)	..	D

Packing-house products—continued.

	L. C. L.
Hides, sheep pelts, hog and goat skins:	
Dry, loose	1½
Dry, in bdls	1
Dry, pressed in bales	2
Dry, min. wt. 10,000 lbs	..
Green, in bundles	3
Green, and bones, grease, tallow, horns, hoofs, tails, and cracklings	..
Hog intestines, uncleaned, in boxes or barrels	4
2220 Hogs, dressed, O. R. of weather and delay of trains	2
Hoofs and horns, packed (see also junk)	4
Lard:	
In crocks or cans, O. R	1
In boxes, buckets and jacket cans	2
In cans, boxed or crated	4
In barrels or tierces	4
In tin-lined tubs	3
In tubs (not tin lined)	2
Meats, dried or desic-ated, in cans or bxs. (see also preserves)	4
Meats (hog), dried, salted or smoked:	
In bags	2
In boxes, barrels or crates	4
In bulk	5
Meats, N. O. S., dried, salted or smoked:	
In bags	2
In boxes, barrels or crates	4
In bulk	5
Meats, fresh, N. O. S., O. R., P. P. or guaranteed	1
Meats, sausage. O. R	2
Neutral:	
In boxes, buckets, or cans, bxd	2
In brls. or tierces	4
Oleo oil in wood or tin, O. R	2
Pigs' feet, pickled	4
Pork scraps, pork trimmings, pork tenderloin, in packages	3
Sausage casings:	
Dry, in boxes	1
Pickled in barrels or kegs	3

Packing-house products—concluded.

2221	L. C. L.	C. L.
Sausage:		
Fresh, O. R.	2	4
Dried, in boxes or barrels	4	
(Except pork), dried in boxes or barrels	..	5
Sheep pelts, pickled, in barrels	3	5
Smoked tongues, in casks or boxes	4	
Stearine	4	5
Tails, cattle, dry, in bales	1	
Tails, cattle, green, salted in barrels	3	
Tails, N. O. S.:		
In bales	3 t 1	
In boxes	1	
Tallow	4	5
Tripe	4	
Paintings, pictures, and panorama scenery:		
In packages, contents of each package not to exceed fifty ($50) dollars in value, and so receipted for, boxed	D 1	
Boxed, valuation as above, released	1	
Boxed, released, value over fifty ($50) dollars per package, but not exceeding two hundred ($200) dollars and so receipted for	D 1	
In packages, value over two hundred ($200) dollars per package, taken by special contract only.		
Paint pots:		
Loose	D 1	
In boxes or barrels	1	4
Nested, in boxes, brls. or crates	2	4
2222		
Paints:		
Paint-driers liquid, in barrels or kegs, valuation not over ten ($10) dollars per brl., and so stated on dray ticket or shipping receipt by shipper, O. R.	3	4
Paint-driers, ground dry	4	5
Paints, asphaltum tar	4	D
Paint, wood filler	4	
Paints, dry earth, ground iron ore, smalts, and ochre:		
In casks or barrels	4	C
In bulk	..	C
White lead, red lead or litharge:		
In casks or barrels	4	5
Litharge, in kegs	4	5

	L. C.	L. C.
Oxide of zinc, in casks or brls	4	
Chemical, in barrels, kegs and boxes	4	
Paints, in oil, white lead or zinc, asphalt, chemical, paraffine, rubber, iron and earth, and paint stain:		
In cans, (round or square) boxed or crated, or in barrels, kegs or kits, iron pails (wooden covers), or in tin kegs, flat tops, inclosed in veneer jackets	4	
In cans, not boxed or crated	1	
Paints, in pails, N. O. S., O. R	D 1	
Paints, N. O. S., in boxes or cans	2	
Paris green	2	
Shellac	2	
Palm leaves, in bales	1	
Pampas plumes, in bales, released, or in boxes	1	
2223		
Paper:		
Binders' board	3	
Blotting paper, in bundles	3	
Book, cover and writing paper, flat, in original sheets, unruled, and uncut, in boxes, crates, rolls or bundles	5	
Books and newspaper, unruled	..	
Bristol boards	2	
Building, roofing and straw wrapping paper, felt paper for carpet lining and felt paper for roofing	4	
Card-board or card paper	2	
Cards	1	
Crates, containing damaged paper, returned to paper manufacturers	..	
Emery paper, boxed	2	
Flint paper, boxed	2	
Fly paper, in boxes or bundles	1	
Glazed paper, O. R. in bundles or bales	1	
News or print paper, in rolls, bdls. or crates or flat manillas in crates (colored or uncolored)	4	
Paper, in boxes, N. O. S	1	
Paper bags, in bundles or boxes	3	
Paper bags and wrapping paper	..	
Patent insides, in bundles	2	
Patent paper, tailors', in rolls, O. R	3	
Sand paper, in boxes, bdls. or rolls	2	
Shelf-decorating paper, in bundles or boxes	1	
Tissue and closet paper, in bundles or rolls, crated	2	
Wood-pulp board	4	
Wood-pulp board and straw boards	..	

Paper—concluded.

		L. C. L.	C. L.
2224	Wrapping paper, N. O. S., in bundles, O. R.....	3	5
	Wrapping paper, oiled, or waxed, in boxes.....	1	
	Wrapping paper, printed, in bundles.....	2	
	Wrapping paper, (rag, straw, or folded manilla), in bundles, or manilla in rolls.....	4	B
	Straw board, plain or lined.....	4	B
	Paper balloons, flat, boxed.....	D 1	
	Paper-cutters, for counter use.....	2	
	Paper doors, O. R.....	1	
	Paper lanterns, K. D., boxed.....	D 2	
	Paper masks:		
	Boxed.....	4 t 1	
	Nested, boxed.....	D 1	
	Paper oyster pails, nested, in bundles boxes or crates...	1	
	Paper tubes, boxed or crated.....	1½	
	Papier-mache, unfinished.....	1	3
	Papier-mache goods, N. O. S., boxed.....	D 1	
	Paste, flour, in barrels.....	4	5
	Patrol boxes:		
	Crated.....	D 1	
	In car-loads.....	..	5
	Patterns, wooden or metallic, O. R. of breakage.....	1½	
	Paving and roofing material:		
	Asphaltum tiling or blocks, O. R.....	4	E
	Canvas roofing or siding.....	3	B
	Cement paving, tar or pitch.....	4	D
	Cement paving blocks.....	..	E
2225			
	Iron roofing, N. O. S.:		
	In boxes, bdls., crates or rolls.....	4	5
	Loose.....	..	5
	Iron roofing flanges:		
	In bundles.....	2	
	In boxes.....	3	
	Iron trusses, for iron roofs.....	4	5
	Jute roofing.....	3	B
	Pitch.....	4	D
	Roofers' outfit, (second hand).....	..	5
	Roofing, asbestos, in boxes or rolls.....	4	5
	Roofing cement, granite and tar, prepared.....	4	5
	Roofing tin.....	4	5
	Rubber roofing material.....	4	5
	Sea-shell paving.....	4	E
	Shingles, tin, iron or steel, boxed.....	4	5

Paving and roofing material—concluded.

	L. C.	L. C.
Slate, roofing, O. R.	3	
Slate, granite or stone paving, rubble, hammered and sawed, curbing and flagging	4	
Stone, all kinds, crushed, for road-building	4	
Tar, N. O. S.:		
In buckets and pails, O. R.	2	
In barrels or cases, O. R.	4	
In cans, packed in barrels	4	
In cans, O. R.	2	
Tile roofing, O. R.	4	
Tile, sidewalk, cement:		
Boxed or crated, released	4	
In car-loads, O. R.	..	
2226 Tiling, floor or facing, encaustic, glazed or unglazed, in packages, O. R. of breakage	4	
Tin roofing	4	
Wood roofing	4	
Sections of wood roofing, covered with iron shingles	D 1	
Perfumery, boxed, O. R.	1	
Phonographs, boxed, O. R.	1	
Photo dry-plates, boxed, O. R. released	1	
Photographs and photographic material N. O. S. boxed, released	1	
Photograph cards, boxed	1	
Picket pins, N. O. S. in boxes, barrels or crates (see also tents and fixtures)	4	
Pillows, N. O. S.	D 1	
Pine straw:		
In sacks, O. R. of fire	1	
Pressed in bales, O. R. of fire	2	
Pipe:		
Boiler flues, iron	4	
Iron pipe, spiral seam, N. O. S., O. R.:		
Diameter exceeding 12 inches	1½	
12 inches or less in diameter	3	
Iron pipe, kalamined with couplings and connections	4	
Iron pipe and couplings and connections:		
Cast, N. O. S.	4	
Wrought, N. O. S.	4	
Iron pipe cast, covered or lined with cement	4	

2227 Pipe—concluded.

	L. C. L.	C. L.
Pipe, sewer:		
N. O. S., O. R. of breakage	3	E
In crates or hhds., O. R.	4	E
Pipe, wood fibre:		
N. O. S., O. R.	1	4
Boxed or crated	2	4
Pipe, block tin:		
N. O. S.	2	5
In boxes or casks	4	5
Pipe-conductor, galvanized iron or tin:		
N. O. S.	D 1	5
Boxed or crated	1	5
Sewer pipe, sheet iron, lined, with cement	4	D
Speaking tubes, tin, boxed or crated	1	
Steel tubes, N. O. S. boxed	4	
Wrought-iron pipe, for refrigerating apparatus, in coils, nested, and headers	3	5
Pipes, smoking:		
Wooden, N. O. S., or fancy boxed	1	
Clay, boxed	2	
Corn-cob or hickory, boxed	2	4
Plaster and wall finish:		
Anti-kalsomine	4	5
Alabastine	4	5
Boralumine	4	5
Carton pierre, bdles. released or in boxes	1	3
Combination stucco and cement work, for interior decorating:		
In bundles, released, or in boxes or crates	1	3
In car-loads	..	3
2228 Dentists' plaster, in barrels	4	C
Diamond wall finish	4	5
Gypsine	4	5
Kalsomine	4	5
Linerusta, walton, in bundles, released or in boxes	1	3
Marbleine	4	5
Paper hangings in bundles, released, or in boxes	1	3
Papier-maché mouldings, center pieces, cornices and covering for wall, in crates or racks, released or in boxes	1	3
Plaster board (Mackolith)	3	B
Plaster of Paris, in barrels	4	C

Plaster and wall finish—continued.

	L. C. L.	C. L.
Plaster of Paris mouldings and center pieces:		
Packed	D 1	
Packed O. R.	1	
Wall plaster:		
Adamant	4	D
Silicon	4	D
N. O. S.	4	C
Plaster N. O. S.	4	C
Plaster cloth	4	C
Sizing	2	
Stucco	4	C
Plates, electrotype and stereotype:		
Boxed, O. R., released	1	
Old, returned to manufacturers, O. R.	4	
Plates, paper or wooden, boxed or crated	2	A
Plated ware, boxed, released	1½	
Pampas plumes, in bales, released, or in boxes	1	
2229		
Plumbers' supplies:		
Basins, marble or crockery, in boxes, brls. or casks	2	
Bath-tubs, N. O. S.:		
O. R.	D 1	
Boxed, crated, or encased in wood	1	
Bath-tubs, iron, tops boarded, sides protected by iron bands	1	
Bath-tubs seats and fixtures, bxd	2	
Boilers, range, iron, released	3	A
Crockery urinals, in bxs. barrels or crates, O. R.	2	
Crockery or earthenware, water-closet bowls, O. R.	2	
Fire-plugs and water gates	4	5
Fire-plugs, water gates and iron pipe	..	5
The rating on water gates should be confined in their application to straight way iron valves, not less than three inches in diameter.		
Grease traps, cement:		
N. O. S., O. R. B.	3	E
In crates or hhds	4	E
Hydrants, yard:		
O. R.	1	5
Boxed, O. R.	2	5
Iron service boxes	4	5
Iron sinks:		
O. R.	2	5
Nested, O. R.	3	5

Plumbers' supplies—concluded.

	L. C. L.	C. L.
Muffles for assayers' furnaces	2	
Range-boiler stands	3	
Slate wash-tubs, boxed or crated, O. R.	3	
Soapstone sinks, boxed or crated	2	
30		
Traps, iron or steel:		
O. R.	2	4
Nested, O. R.	3	4
Traps, lead, packed	2	
Tubs and sinks:		
N. O. S., cement or granite, crated O. R.	3	
Crockery, boxed or crated, O. R.	3	
Water-closets, boxed or racked, released	1	
Water-closet tanks:		
Copper-lined, boxed	2	4
Iron, O. R.	2	4
Iron, nested, O. R.	3	4
umbers' materials, N. O. S., in boxes, or casks	2	
orcelain ware:		
In barrels, boxes, or kegs, O. R.	1	
In casks or hhds., O. R.	2	
stal-bag racks	3	
st-office wood-work, N. O. S., K. D. flat and packed	1	
st, hitching, wooden or iron, O. R.	2	
wder magazines, stationary, completely K. D.	3	B
eservatives, food:		
Cream preservatives, O. R.	1	
Preservaties, food, N. O. S., O. R.	1	
Salts, meat-preserving, (preservaline)	4	5
eserves:		
Canned fish (not sardines), fruits, meats, soups and vegetables, N. O. S., boxed, (see also pickles)	4	5
Eggs, condensed, in cans, boxed	3	5
Pickles, catsup, horse-radish (prepared), mustard (prepared), and olives:		
In glass, packed in bxs., brls., or kegs, O. R.	2	5
In brls., kegs, kits, or casks	4	5
In wooden pails or tubs	1	5
In wooden pails, boxed	4	5
Catsup, in tin cans, crated	3	5
Catsup, in tin cans, boxed	4	5

Preserves—continued.

		L. C.	L. C.
2231	Pickles, catsup, horse-radish (prepared) preserves, jelly, fruit butter, mincemeat, mustard (prepared); olives, oysters (pickled or cove), soups, table sauces, including pepper sauce, fish (except sardines) fruit meat and vegetables (not green, dried or desiccated), in wood, in tin cans, boxed, or in glass, packed in bxs. or brls.	..	5
	Preserves, jelly, fruit butter, or mincemeat:		
	In glass, packed, in brls. or bxs., O. R.	2	5
	In tin cans, bxd., O. R.	4	5
	(See also pickles.)		
	In barrels, kits, or kegs, O. R.	4	5
	In buckets, pails or tubs, O. R.	1½	5
	In buckets or pails, bxd., O. R.	4	5
	Mincemeat:		
	In cans, not packed O. R.	1½	
	In paper boxes, boxed	3	5
	Table sauce, including pepper-sauce:		
	In glass in bxs. brls., or casks O. R. (see also pickles)	1	
	In bulk, in brls. or casks	4	
	For description of packages entitled to be rated as kits, see kits.		
2232	Printed matter, boxed or in bdls., O. R.	1	
	Printers' cabinets, crated	2	B
	Printers' cases, in bundles	3	B
	Printers' form-table, frames, or stands, S. U.	1	B
	Cast-iron taps for same	3	B
	Printers' stands, K. D., in bundles	3	B
	Printers' chases, iron, in boxes or crates	2	
	Printers' elastic composition for rollers, in barrels or boxes	2	
	Pudding:		
	In paper packages, boxed	3	
	Canned, boxed	3	
	Pulleys, hay, N. O. S., in boxes or barrel-	3	5
	Pumps:		
	Beer pumps:		
	S. U.	1½	
	K. D., boxed	2	
	Chain pumps and fixtures, O. R.	1	A
	Elevated bucket pumps, K. D., packed in pump cases, or in crates or barrels, released	3	A

Pumps—concluded.

	L. C. L.	C. L.
ron pumps, N. O. S.:		
Loose, O. R.	1	A
In boxes or casks	3	A
)il pumps and caps for oil barrels, boxed or crated, released	D 1	
'ump tubing, wooden	See lumber tariff	
'umps, suction, and tubing, wooden	3	B
'amp cylinders, porcelain lined:		
Loose	1	5
In boxes, crates, or barrels	3	5
Pump rods, wood, iron, or steel	4	5
3 Pump castings, iron, not machine-finished, in bxs., brls., or casks	4	5
Sucker-rod joints, iron, cast:		
Not machine-finished, packed	4	5
Machine-finished, boxed	2	5
team pumps, O. R.	1	A
Tin pumps and fixtures, O. R.	D 1	
tty, in barrels or cans, or in tin cans, boxed	4	5
tty in paints, in oil	..	5

Q.

artermasters' stores, N. O. S.	1	
icksilver:		
n iron flasks	1	
n glass, boxed, O. R., released	1	

R.

ks, roll paper, boxed or crated, O. R.	1	
gs and paper scraps, O. R. of fire:		
n sacks or bags, min. wt. 14,000 lbs.	2	B
n bales or crates, pressed, min. wt. 14,000 lbs.	3	B
n hogsheads or barrels, min. wt. 14,000 lbs.	3	B

Charges should not exceed what would accrue by the application of class D rates, min. wt. 20,000 lbs.

gs:

Charges should not exceed what would accrue by the application of class B rates, min. wt. 14,000 lbs.

gs, loose, not taken.

2234

	L. C. L.	C. L.
Railway equipment, machinery and supplies:		
Cars:		
Sleeping, parlor, chair, dining, 20 cents per car per mile.		
Passenger and combination, 18 cents per car per mile.		
Baggage, mail, express, fifteen (15) cents per car per mile.		
Box, stock, flat, caboose, coal, ten (10) cents per car per mile.		
Ballast-spreaders (dump cars with spreading attachment:)		
Hauled in train, ten (10) cents per car per mile.		
Loaded on flat cars	..	A
The above rates will also apply upon narrow-gauge, equipment upon standard-gauge trucks furnished by shipper.		
Narrow-gauge cars, loaded on standard-gauge flat cars	..	A
Standard-gauge cars, K. D., loaded on flat cars	..	A
Dump-cars, K. D., released	..	A
Hand, push or mining cars	1	A
Inspection cars, steam	1½	A
Logging cars, narrow-gauge	1	A
Cars and steam motors, combined:		
Where flat car- 36 feet or less in length are furnished, min. wt. 20,000 pounds	..	A
2235 Where flat cars over 36 feet in length are furnished, min. wt. 24,000 pounds	..	A
Street cars, one horse, min. wt. 6,000 pounds	1	
Street cars, two horses, min. wt. 8,000 pounds	1	
Street cars, K. D., loaded in box cars	..	A
Street cars and motor, combined, actual weight	1½	
Street cars, also street cars and motors, combined, and motor cars without trucks:		
When flat cars 36 feet or less in length are furnished, min. wt. 20,000 lbs	..	A
When flat cars, over 36 feet in length are furnished, min. wt. 24,000 pounds	..	A
Street-car material, in the white K. D., in bundles, boxes, or crates	3	A
Street-car boots (platforms, steps, and dash-boards):		
S. U.	1	A
K. D., in bundles, boxes or crates	3	A

Railway equipment, machinery, and supplies—continued.

	L. C. L.	C. L.
Tank cars:		
Loaded on flat cars	..	A
On own wheels, ten cents per mile. Empty returned, special contract. No mileage will be paid, loaded or empty either way.		
2236		
Locomotives and tenders:		
Narrow gauge, on flat cars, no pass will be given	..	A
Standard gauge, on their own wheels, including transportation for one man in charge no return pass will be given, min. wt., 60,000 lbs	..	E
NOTE.—In no case shall the charge for each locomotive loaded on flat car exceed the charge that would apply if the locomotive was hauled on trucks, or on its own wheels.		
Cranes, steam or hand	..	A
Extension pile-driver, portable steam shovel, portable steel-rail saw, snow-plow, steam wrecking crane: Hauled in train or on trucks furnished by shipper, one man in charge may be passed one way. No return pass will be given.		
Min. wt., 60,000 pounds	..	E
Steam-shovel fixtures, loaded on flat cars	..	A
Railroad excavator and wrecker on trucks, actual weight	..	A
Ballast-unloaders	3	A
Brakes and fixtures, car N. O. S.	1	5
Brasses, car, in pkgs	3	
Car frames, wooden	3	B
Car movers, or pushers, in boxes, barrels or crates	4	
Car seals, lead, boxed	4	
2237		
Car trucks:		
Coal or mining	2	5
N. O. S., S. U.	2	
N. O. S., K. D.	4	
Loaded on flat car	5	
Car wheels and axles, N. O. S.	4	5
Center plates, iron or steel	4	5
Fare boxes, for street cars	1	
Freight-car doors	3	B
Freight-car door-hangers, iron, boxed or crated	3	5
Gas cylinders, R. R. car supply	1	5
Head-lights, boxed, O. R.	D 1	

Railway equipment, machinery and supplies—continued.

	L. C. L.	C. L.
Iron cattle-guards (surface)	2	5
Iron car wheels, axles, draw-bars and bumpers	4	5
Iron rail-benders	3	
Iron or steel track-cleaners for street railroads, packed flat	4	5
Locomotive cabs:		
Set up	1½	
K. D.	3	
Locomotive lining	4	D
Locomotive netting	4	5
Locomotive smoke-box fronts, pressed steel (doors and fittings, boxed or crated)	3	5
Locomotive tires	4	
Motors for street railways, N. O. S., loaded on flat cars	..	A
Portable track	5	
Rails, iron or steel, yokes and fastenings for street railway, mining, cable or motor companies	4	5
2238		
Railway supplies:		
Brake shoes and beams	4	5
Car axles	4	5
Car-couplers	4	5
Car springs, (rubber, steel or volute)	4	5
Car wheels	4	5
Coal-chute irons	4	5
Crank pins	4	5
Equalizing bars	4	5
Frogs	4	5
Iron channel bars for freight-car trucks	4	5
Iron or steel rails	4	5
Links and pins	4	5
Locomotive pilots	4	5
Net locks	4	5
Rail braces	4	5
Railroad chairs	4	5
Round-house ventilators, (cast and wrought iron) parts of	4	5
Semaphore material, (iron)	4	5
Spikes	4	5
Splices	4	5
Splice-bolts	4	5
Split switches	4	5
Switch-stands	4	5
Tie-plates	4	5

Railway equipment, machinery and supplies—concluded.

	L. C. L.	C. L.
Ties, iron or steel	4	5
Safety gates and attachments	3	A
Seats, locomotive cab:		
S. U. boxed or crated	1	
K. D. boxed or crated	2	
Steel steps, for street railway cars, crated	3	5
2239 Ties, railroad, wood, special contract.		
Torpedoes, railroad, bxd, released	1	
Turn-tables	3	5
Velocipedes, railroad, K. D.	1	
Wooden doors and inclines for coal shutes	4	C
Wooden car bodies, S. U.	A	
Reading glasses O. R. boxed	D 1	
Rigging and tackle block iron or wood:		
O. R.	2	5
In boxes or barrels	3	5
Roasters, peanut:		
S. U. bxd. or crated, O. R.	D 1	
K. D., boxed or crated	1	
Roasters, coffee:		
Cast-iron	1	
Cast-iron, K. D. crated	3	
Cast-iron, K. D. boxed	4	
Sheet-iron sample:		
S. U. bxd., or crated, O. R.	D 1	
K. D., boxed or crated	1	
Rods, stair, in boxes	2	
Rolling partitions, wooden, and fixtures, boxed	2	4
Roots:		
Canagre roots:		
In sacks or barrels, O. R.	..	A
In bulk, O. R.	4	A
Celery roots, in sacks, boxes or barrels	1	
Ginseng	1	
Rice roots, in bales	2	
Roots, N. O. S., in sacks, boxes, or barrels	..	1
2240 Roots and barks N. O. S., of less value than 10 cents per pound, pressed in packages	..	3
Rope hair	1	
Rosin, in barrels	4	C

	L. C. L.
Rubber, and articles of:	
Rubber, crude	3
Rubber goods, N. O. S.	1
Rubber, in sheets	1
Rubber, old:	
In bags	2
In brls., crates or bales (see also junk)	3
Window-cleaners, rubbers, bxd	2
Rugs	1
Rustic work, O. R.	D 1

S.

Safes, bread, cheese, meat or milk O. R. rel	1½
Safes, iron:	
Entirely at O. R. of chafing and breakage, loaded and unloaded by owner as follows:	
Each, weighing less than 5,000 lbs	3
Each, weighing 5,000 lbs. and less than 10,000 lbs	2
Each, weighing 10,000 lbs. or over	1
Safes, iron, C. R. of chafing and breakage, double above rates.	
Saloon furniture as follows:	
Arm-rails, min. wt. 15,000 lbs	3
Bottle-cases, min. wt. 15,000 lbs	3
Chairs, min. wt. 15,000 lbs	3
2241 Counters, min. wt. 15,000 lbs	3
Desks, min. wt. 15,000 lbs	3
Door window and bar screens, min. wt. 15,000 lbs	3
Foot rails, min. wt. 15,000 lbs	3
Marble slabs, min. wt. 15,000 lbs	3
Metal brackets for arm and foot rails min. wt. 15,000 lbs.	3
Partitions, min. wt. 15,000 lbs	3
Refrigerators, min. wt. 15,000 lbs	3
Show-cases, min. wt. 15,000 lbs	3
Sideboards, min. wt. 15,000 lbs	3
Tables, min. wt. 15,000 —	3
Wainscoting, and office railing, min. wt. 15,000 lbs	3
Wooden mantels, min. wt. 15,000 lbs	3
Work-boards, min. wt. 15,000 lbs	3
Provisions for articles enumerated above will apply upon the same articles when comprising a part of store or office furniture.	
Salt:	
In glass or earthen jars, packed in boxes or barrels	3
In sacks, boxes or barrels. (See tariff)	4
In bulk. (See tariff.)	

	L. C. L.	C. L.
Saltpetre	4	5
Salt, roller	4	
Sand	4	E
In packages	4	E
In bulk	..	E
Sand and sawdust, mixed:		
In barrels	4	
Car-loads	..	E
2242		
Sausage-stuffers:		
S. U	1	
K. D., boxed	2	
Saw-bucks, K. D	3	
Saws:		
On boards	1	
In boxes	2	
Circular saws, with frames	1½	
Drag-saws, with horse power	2	
Scales and scale beams:		
Not boxed, O. R	1	3
Boxed, O. R	2	3
(See also machinery, automatic machinery.)		
Scale weights, boxed	4	
Scouring material and compounds:		
Soapstone and dust	4	C
Polishing and cuffing compounds: except liquids	4	5
Scrapers:		
Pond	3	A
Road, with wheels, S. U	1	A
Road, with wheels, K. D	2	A
Road, without wheels, S. U	2	A
Road, without wheels, K. D	3	A
Scrapers, pond and road, R. R. grading plows and wheelbarrows	..	A
Provisions for road-scraper is applicable on two-wheeled sulky scrapers and drag-scrapers only, and not on four-wheeled road-making machines.		
2243		
Screens:		
Door and window, wire, ends cleated, and sides slatted or crated, O. R. released	1	B
Sand, coal or foundry, not riddles, O. R	1	A
Riddles in bundles, O. R	D 1	
Riddles, boxed, O. R	1	

	L. C. L.	C. L.
Screws, bench, iron or wood	2	
Screws, in kegs	2	
Seeds:		
Apples and peach, O. R.	3	4
Blue grass, canary, red top, O. R.	2	4
Alfalfa, lucerne, clover, timothy, broom-corn, meadow fescue, and rape, O. R.	3	A
Beet seed	2	4
Bird seed, in packages, boxed	2	4
Canary	1	
Cotton	4	E
Elder, maple and ash	3	4
Flax and flax screenings, hemp or millet, O. R.	4	(See tariff)
Garden and osage orange, O. R.	1	3
Grass, N. O. S.	2	4
Garden, returned, O. R. P. P. or guaranteed	3	
Hungarian and sorghum	4	Same as flaxseed
Locust-tree seeds	3	4
Mustard seed	2	
Seed, N. O. S., O. R.	1	
Sunflower	3	A
Shavings or chips, brewers' or vinegar:		
In bags	1	5
In boxes, bales or barrels	3	5

2244

Shavings for purifying gas:		
N. O. S.	3	D
In bulk	..	D
Shells, oyster, ground or crushed:		
In paper bags, packed	2	
In burlaps or cotton bags, boxes or barrels	4	
Shells, oyster, N. O. S.	4	
Shells, in boxes, barrels, or hhds. P. P.	2	
Ship knees, wood	4	B
Shoddy, shoddy dust, and shear flocks:		
In sacks, O. R.	1	
In bales, O. R.	2	
C. L. min. weight, 12,000 pounds	..	3
Shoveling boards	3	C
Show-cards:		
Glass, boxed, O. R., P. P.	D	1
Other than glass, boxed, P. P.		1

	L. C. L.	C. L.
Show-cases, including cigar refrigerators (wood and combined):		
Boxed, C. R.	3 t 1	
Boxed, bottoms crated, O. R.	D 1	
Show-cases, boxed, (bottoms crated), show-case frames and show-case supports, O. R. min. weight 12,000 pounds	..	2
Show-case material, K. D. and packed, released	1	
Sieves, N. O. S.:		
Loose	3 t 1	
In bundles	D 1	
In crates	1½	
In boxes	1	
(See also tin articles.)		
2245		
Signs:		
Barber poles, O. R., P. P.	2	
Glass signs, boxed; O. R., P. P.	D 1	
Iron and tin signs, N. O. S., in boxes or crates, O. R., P. P.	1	
Wire signs, O. R.	D 1	
Wood signs, O. R., P. P.	2	
Silk cocoons, in boxes	D 1	
Sinks, wooden, in bundles and boxes	3	B
Skates, ice and roller, boxed	2	
Skylight frames and ventilators, galvanized iron:		
Racked released	1½	
Min. weight 10,000 pounds	..	3
Slag	..	E
Snow-shoes	1	
Snuff	1	
Soap:		
Castile, toilet or fancy	2	
Harness oil	4	5
Soft, in glass, boxed	2	
N. O. S.	4	5
Soap powder, washing and scouring compound, (exclusive of bluing) and crystals	4	5
Soap, weed or root, in sacks	4	
Soda:		
In packages	4	E
In bulk	..	E
Soda fountains and fixtures, O. R.	1	

Packages having an aperture on each side to indicate the character of the articles enclosed, rated as first class.

	L. C. L.	C. L.
Solder, in boxes	3	4
2246		
Soluble blue:		
In bulk, in casks	4	5
In packages, packed	1	4
Specimens:		
Botanical, valuation not to exceed 5 cents per pound, and so receipted for, released, O. R.	D 1	
Fossil, in rocks, O. R., P. P.	4	
Mineral, in the rough, boxed, O. R., P. P.	4	
Mineral and petrified wood, polished, N. O. S. boxed O. R	1	
Spectacles, boxed, O. R	D 1	
Spectacle lenses, boxed, O. R	D 1	
Spelter	4	5
Spinning wheels	D 1	
Spoke-drivers	1½	
Sponges, packed	D 1	
Spoons, iron or tinned iron, boxed	3	
Sporting goods and toys:		
Air guns, boxed, released	1	
Ammunition, fixed	1	
Archery goods, boxed	1	
Archery goods, not boxed, not taken.		
Base balls, boxed	1	
Base-ball bats	2	4
Base-ball bats and croquet sets	..	3
Bicycles, tricycles, and velocipedes, N. O. S., bxd. or crated, released	D 1	
Bicycles, tricycles and velocipedes, N. O. S. Not boxed or crated, not taken.		
2247 Bicycles and tricycles, parts of: Consisting of rubber tires, saddles, treadles, handles, wheels (taken apart) boxed	1	
Bullets, lead, in boxes or kegs	4	
Caps, percussion	1	
Cartridges (ammunition)	1	
Coaster cars, crated	D 1	
Croquet sets, boxed (see also base-ball bats)	2	4
Decoy ducks or geese, bxd	1	
Dolls' carriages, boxed, released	1	
Dumb bells, iron	1	
Fishing poles	D 1	4
Fishing rods, jointed, boxed	1	

Sporting goods and toys—concluded.

	L. C. L.	C. L.
Fishing tackle, boxed	1	
Fire-arms, boxed, O. R	1	
Geometrical blocks	1	
Glass balls, in boxes or barrels	2	
Gunpowder, common, and black blasting powder of same composition, O. R	D 1	1
Gun-stocks	2	
Gun-wads, boxed	1	
Gymnastic apparatus, K. D., bxd. or crated	1	
Hobby horses:		
N. O. S	D 1	
K. D. and boxed	1	
Indian clubs, in brls. or boxes	2	
Lawn tennis sets, boxed	2	
Marble, in boxes, brls. or casks	2	
Merry-go-rounds, K. D	1	
Paper target and fixtures, O. R	1	
Shells, cartridges, metallic, returned, in boxes, brls. or casks	4	
2248		
Shot:		
In bags, N. O. S., O. R	1	5
In bags, boxed	4	5
In pockets, inclosed in gunnies O. R	4	5
In kegs, O. R	4	5
In boxes O. R	2	5
Sportsmen's flying targets, clay or pitch, and traps in bxs. or brls	2	4
Stilts, wooden, in bundles	3	
Swings, wooden, K. D., boxes or crates	2	
Target frames, wooden, taken apart, all parts except posts, boxed or crated	3	
Ten-pin balls and pins, boxed	2	
Toboggans, O. R	D 1	
Toys, N. O. S., box-, released	1	
Toy alphabetical or building blocks, boxed, released	1	
Toy drums, boxed, O. R	D 1	
Toy torpedoes, in boxes or barrels, O. R	1	
Toy trunks, boxed	1½	
Traps, animal or bird, packed flat, in bundles, O. R.	1	
Springs:		
Carriage or wagon:		
N. O. S	2	A
Boxed	3	A

Springs—concluded.

	L. C. L.	C. L.
Springs for wagon seats:		
N. O. S.	2	A
Boxed	3	A
Car seats, wire, coiled, in boxes, barrels or casks	2	4
2249		
Wire, N. O. S.:		
Coiled, in bundles	1	
Coiled, in boxes, barrels or casks	2	4
Stationery:		
Clips, letter file, boxed	1	
Desk racks, adjustable K. D., boxed	2	
Document files, wooden parts nested solid, other parts K. D. flat, boxed	2	
Envelopes, in boxes	1	
Erasers, blackboard, in boxes	1	
Hectographs, boxed, O. R.	1	
Ink, in glass or stone, or in paper bottles, packed O. R. B.	1	
Ink, writing or printing, in cans, kegs or barrels, O. R. L.	2	
Inkstands, boxed O. R.	1	
Letter-filing cases or document boxes and office ticklers:		
Boxed or crated O. R.	D 1	
K. D. flat, boxed	2	
Mucilage:		
In glass or stone, packed O. R.	1	
In wood	2	
Paper tablets and tabs, boxed, released to valuation 4 cents per pound	2	3
Pencils, slate, boxed O. R.	2	
Presses, copying, and stands for same:		
O. R.	1	
Boxed	2	
Seal presses, hand, packed	1	
Slates and pencils, school, boxed O. R.	2	
Stamps:		
Check-canceling, boxed	1	
Dating, boxed	1	
2250 Numbering, boxed	1	
Pocket, boxed	1	
Self-inking, boxed	1	
Parts of stamps above enumerated, including moldings, pads and racks, bxd	1	

Stationery—concluded.

	L. C. L.	C. L.
Stationery, N. O. S., boxed, O. R.	1	
Steam-drying closets:		
S. U., released	D 1	A
K. D., released	1	A
Steam-heating apparatus:		
Radiators, steam, O. R.	3	5
Steam coils and *and* fixtures	3	5
Steam-heating apparatus, including boilers, O. R. released	3	5
Stereoscopes, boxed, O. R.	1	
Stethoscopes, boxed, O. R.	D 1	
Stereopticon lantern and fixtures, boxed, O. R.	D 1	
Stock hydrants, wood and fixtures	1	
Stone and manufactures of same:		
Foot-warmers and facings, stone, O. R.	2	
Lithographic stones, bxd., O. R.	2	
Marble, granite, jasper, and onyx:		
All kinds, C. R.	D 1	
N. O. S., O. R. B.	1	
Blocks, rough-quarried, O. R. B., valuation restricted to 20 cents per cubic foot, and so receipted for	4	E
Marble, granite, jasper, onyx, and slate blocks or slabs, N. O. S., O. R. breakage, chafing, or chipping, valuation restricted to 40 cents per cubic foot, and so receipted for:		
2251 Sawed, dressed or hammered, boxed or not boxed.	4	D
Chiseled or polished, boxed	4	D
Monuments or tombstones, stone:		
O. R. B., boxed or crated, valuation restricted to 40 cents per cubic foot, and so receipted for, P. P. or guaranteed	4	D
O. R. breakage, chafing or chipping, P. P. or guaranteed	1	
Marble, broken, valuation restricted to 40 cents per cubic foot, and so receipted for	4	E
Marble or granite statuary:		
C. R.	D 1	
O. R. B.	1½	
O. R. B., valuation restricted to 40 cents per cubic foot, and so receipted for	1	

NOTE.—Cut-stone, marble tombstones, monuments and statuary, in pieces weighing 5 tons or over, to be loaded and unloaded at risk and expense of shipper and consignee.

Stone and manufactures of—concluded.

	L. C. L.	C. L.
Pumice-stone:		
N. O. S.	2	
Powdered, in barrels	3	
Slate, school (unframed), O. R.	2	4
Soapstone:		
Finish	4	C
Griddles, boxed, O. R.	2	
Slabs, boxed, O. R.	2	
2252		
Stone, N. O. S., including artificial stone:		
Lettered or figured, P. P. released	D 1	
Lettered or figured, boxed or racked, P. P. released.	1	
Dressed (not lettered or figured) released	4	D
Rough, undressed and sawn stone, not further manufactured	4	E
Stoneware (not crockery), N. O. S.:		
Loose, or in open packages, O. R., released, to be taken at carrier's convenience	1½	
In boxes or barrels, O. R. B.	2	B
In crates, casks or hhds. O. R. B.	4	B
In bulk, O. R. B.	..	B
Stoneware churns, with wooden tops and dashers:		
In boxes or barrels, O. R. B.	2	B
In crates, casks or hhds., O. R. B.	4	B
Provisions for stoneware in boxes, barrels, crates, casks, and hhds. are applicable on shipments in covered packages only.		
Stones, oil, in boxes, O. R.	1	
Whetstones, sand, in boxes, O. R.	3	
Stone-boats	2	A
Storm-houses, wood and iron, combined, K. D.	3	B
Stoves, stove furniture, furnaces and parts of:		
Castings, for hot-water heaters	C. R. 1½	
Cremating stoves or fire-closets, and parts of same	C. R. 1½	
2253 Fenders (iron)	C. R. 1½	
Furnaces	C. R. 1½	
Furnace castings	C. R. 1½	
Grate castings	C. R. 1½	
Grate bars	C. R. 1½	

Stoves, stove furniture, furnaces and parts of—continued.

		L. C. L.	C. L.
	Hollow ware and stove furniture consisting of the following articles made of cast or sheet iron or steel:		
	Bake-ovens, N. O. S.	C. R. 1½	
	Blowers	C. R. 1½	
	Boilers	C. R. 1½	
	Broilers	C. R. 1½	
	Cover-lifters	C. R. 1½	
	Griddles	C. R. 1½	
	Kettles	C. R. 1½	
	Pans (ash, drip or fry)	C. R. 1½	
	Pokers	C. R. 1½	
	Pots	C. R. 1½	
	Reservoirs	C. R. 1½	
	Roasting bake-pans or bakers	C. R. 1½	
	Sad-iron heaters	C. R. 1½	
	Scrapers	C. R. 1½	
	Shakers	C. R. 1½	
	Skillets	C. R. 1½	
	Spiders	C. R. 1½	
	Stovepipe dampers	C. R. 1½	
	Stove shovels and tongs	C. R. 1½	
	Waffle irons	C. R. 1½	
	Registers	C. R. 1½	
	Rocking grates	C. R. 1½	
	Steam-heaters (portable)	C. R. 1½	
	Stove plate	C. R. 1½	
2254	Stoves N. O. S. (including trimmings and ornaments)	C. R. 1½	
	Tank-heaters	C. R. 1½	
	Thimble collars, iron	C. R. 1½	
	Articles before enumerated under above heading, except hollow ware and stove furniture (as described) released	3	5
	Hollow ware and stove furniture (as above described) and stove plate:		
	Released	2	5
	Crated	3	5
	In boxes, barrels or hhds.	4	5
	Castings for hot-water heaters, cremating stoves or fire closets and parts of same, furnace and grate castings, grate bars and rocking grates, in bls., brls. or hhds	4	5
	Stoves, oval, wood-burning, K. D. in pieces	3	5
	Stoves, cannon, K. D. in pieces	3	5

Stoves, stove furniture, furnaces, and parts of—continued.

	L. C.	L.	C.
Stoves, gasoline, gas, oil or vapor:			
(With steel frames), and sheet-iron camp stoves and fixtures with ovens in same package or without ovens, O. R. boxed or crated		1½	
Frames of cast iron and fixtures with ovens in same packages, or without ovens, boxed or crated, O. R.		1	
K. D. flat, boxed		2	
Ovens for gas, oil and vapor stoves, in separate packages		1½	
Grates and mantels, in mixed car-loads (see mantels).			
2255			
Stove-boards, zinc, tin or iron:			
N. O. S.		1	
Racked		2	
Boxed		3	
Stovepipe and stovepipe elbow N. O. S. released	D	1	
Stovepipe, boxed or crated, released		1½	
Stovepipe elbows,			
In uniform bundles of one dozen each (four elbows, ends lapped in a ring, three rings wired securely together) or crated released		1½	
Packed in boxes, released		1	
Stovepipe iron, cut in shape for stovepipe, nested solid, boxed or crated, released		3	
Stovepipe, stovepipe elbows, stopepipe iron cut in shape for stovepipe (nested solid) coal hods		..	
Stovepipe iron cut in shape for stovepipe and sheet-iron dripping pans		..	
Stove-boards, coal hods, zinc, sheet iron, stovepipe and elbows may be loaded with stoves, N. O. S. in car-loads at fifth-class rate.			
Stove polish or blacking:			
In glass or stone, packed in bxs. or barrels		1	
In boxes or kegs		2	
Bake ovens including portable, reel ovens, galvanized or sheet iron:			
S. U.	D	1	
K. D.		1	
2256 Coal hods or scuttles, (see also stovepipe)		2	
Cookers, steam, tin:			
Boxed or crated	D	1	
Nested, boxed		1	
Cooking crocks (made of tin and earthenware) in boxes or crates, O. R.		5	
		1	

Stoves, stove furniture, furnaces and parts of—concluded.

	L. C. L.	C. L.
Feed steamers and cookers:		
N. O. S.	D 1	
Released	1	5
(See also machinery, evaporators.)		
Iron stovepipe shelves boxed, O. R.	3	
Ovens, tin, N. O. S. in racks O. R. D.	D 1	
Sad-irons, in boxes or barrels	4	5
Sheet-iron canopies for ranges crated	1½	
When loaded with stoves, N. O. S.	..	5
Sheet-iron drums for heating, crated	1½	
Straw pulp	3	C
Stump-pullers:		
O. R.	1	A
K. D. O. R.	2	A
Subsistence stores, N. O. S.	1	
Sugar-cane	3	B
Sugar trains	1	A
Surgical appliances:		
Crutches and trusses, boxed, crated	1	
Dissecting tables:		
S. U. boxed or crated	D 1	
Completely K. D. boxed or crated	1	
Surgical appliances, N. O. S. boxed	1	
Surgical instruments, boxed, released	D 1	

T.

Tags, paper, in boxes	1	3
2257 Tags, tin, in boxes	2	3
Tanks:		
Iron tanks, empty, O. R.	D 1	5
The rating provided should be understood as applying on empty iron tanks, N. O. S. and as excluding oil tanks.		
Oil-storage tanks, plate iron:		
Ten-foot and under in length	3	A
Over ten and under 30 foot long	1	A
30-foot long or over	1½	A
Oil tanks, hooded:		
Boxed or crated, released	1½	
Hoods packed flat inside tanks, crated	1	
Oil tanks, N. O. S.:		
Released	3 t 1	
Boxed or crated, released	1	
C. L. min. weight 15,000 pounds	..	5
Swimming tanks, iron frame, glass removed, O. R.	D 1	

	L. L. C.	C. L.
Tanks or vats, wooden:		
S. U.	D 1	B
K. D. or wooden tank or vat stuff and fixtures, O. R.	3	B
Tanks, combination iron and wood, used as gas-holders, in sections	..	5
Tarpaulins	1	
Teasels	D 1	
Tents and fixtures:		
Tent poles, in bundles	3	B
Tent pins and keys:		
In bundles	1	B
In boxes, crates or barrels	4	B
2258 Tent pins, tent keys, and picket pins, N. O. S., in boxes, barrels, or crates	..	B
Tent poles, tent-pole ridges, cant hooks, peavies and pike pole	..	C
Tents and fixtures, N. O. S.	1	3
Terra cotta, for building purposes, O. R.	3	B
Theatrical properties, N. O. S., released to valuation of five dollars ($5.00) per 100 lbs., in case of loss, and so receipted for, P. P., or guaranteed, in boxes, or trunks, boxed	1	
Theatrical scenery:		
Released, P. P.	3 t 1	
Boxed, released	D 1	
Ticket cases, boxed or crated, released	1	
Tile:		
Building tile, hollow:		
O. R. breakage	3	E
In crates or hhds., O. R.	4	E
Decorated art tiles, in boxes or barrels, O. R.	1	
Drain tile:		
O. R. of breakage	3	E
In crates or hhds., O. R.	4	E
Fire-tile, for lining fire-places and chimneys	4	D
Galvanized-iron tile, for malt-house floors	2	
Glass tiling, in packages, O. R., of breakage	4	
Marble tile for floors:		
Boxed or crated, released	4	C
Loose	..	C
2259		
Slate tile, for floors:		
Boxed or crated, released	4	5
Loose	..	5

	L. C. L.	C. L.
Tiling, floor or facing, encaustic, glazed or unglazed, in packages O. R. of breakage	4	
(See also stone and manufactures of.)		
Tin articles:		
Tin foil	1	
Tin, crystal finished, in sheets, flat boxed	4	5
Tin, japanned or enameled, N. O. S. in sheets, flat, boxed	2	
Tin, pig, bar or slab	2	4
Tin, perforated, for kitchen safes, boxed	3	4
Tin plate, in boxes, fully released against wet, rust and damage to tin or package	4	5
Tin scrap in crates or casks, (see also junk)	3	D
Tin tops and bottoms, N. O. S., nested in boxes or brls.	3	4
Tinware, N. O. S. including galvanized sheet-iron coffee-pots, granite ware, milk-can covers and bottoms, tin lard-pails, tin sieves, tin sifters, tin typewriter covers.		
Loose	D 1	
In boxes or barrels	1	4
Nested, in boxes, barrels or crates	2	4
Stamped, nested solid	3	4
The above rating is applicable only upon articles that are nested solid, *i. e.*, where the outside and bottom surfaces of the article above rest against the inside and surface of the bottom of the article below without any intervening space between the outside and inside surfaces, and will exclude articles *articles* with projecting ears, handles, spouts, etc., which nest, but not solid as above described.		
Tin lard-pails, nested, N. O. S.	4	
Tinners' trimmings, in boxes or barrels	2	
Tobacco:		
N. O. S., in bales, barrels, boxes, or kegs or in tight baskets with tight wooden covers securely fastened.	1	
Cut, in pails.	D 1	
Cut, in pails, two or more strapped or racked	1	
Plug, nugget or twist:		
In pails, two or more pails strapped together, packages weighing 60 pounds or over	3	
Plug, in packages weighing less than 60 pounds each.	1	
In packages weighing 60 pounds or more each	3	

2260

Tobacco—concluded.

	L. C. L.	C. L.
Two or more butts may be strapped together with wooden straps or two or more caddies with iron straps, and if the weight of the entire package so formed equals 60 pounds, the 3d-class rate will be charged.		
2261		
Smoking tobacco:		
In bales	1	
In barrels, boxes, or kegs	2	
Stems	4	
Tobacco, unmanufactured:		
In hhds., brls. or boxes	4	
In bales	2	
Tobacco sheep dip	3	A
Toilet boxes or cases:		
Plush, boxed	D 1	
Filled with toilet sets, boxed	1	
Tomato pulp, in barrels	4	C
Tools:		
Axes	3	
Buck-saw frames:		
In bundles	1	
In boxes, barrels or crates	2	
Cant hooks and peavies. (See also, tents and fixtures)	3	C
Crowbars, iron	4	
Drain-cleaners, in bundles	2	
Edged tools, boxed	2	
Forks, coke or tanners, in bundles	2	
Hatchets and hammers	2	
Ice tools	1	
Iron blacksmiths' cones and mandrels	4	
Iron blacksmiths' drills	2	
Rating on blacksmiths' drills is applicable on hand drills only, and not on power drills.		
Iron drills, N. O. S. for drilling machines	2	
Iron track tools, viz:		
2262		
Mauls, picks, rail forks, sledges, track chisels, track punches, track tongs, track wrenches:		
Loose or in bundles	3	
In boxes or barrels	4	
Mattocks, in boxes or barrels	4	

Tools—concluded.

	L. C. L.	C. L.
Pike poles, in bundles, crates or boxes, see also tents and fixtures	3	C
Planes, hand, boxed	2	
Plane bodies, boxed	2	
Pokes, animal	1	
Post augurs	1	
Post-hole diggers	2	
Tool, blacksmiths' anvil, viz:		
Cold and hot cutters, countersink chisels, flatters, fullers, hardies, headers, punches, set-hammers, and swages:		
In boxes, brls. or drums	4	
Tools, mechanics' (chests and contents)	1	
Tools marked with card, not taken.		
Tools, N. O. S., boxed	2	
See also woodenware		
See also agrl. implts., hand.		
Toothpicks, wooden, boxed	1	5
Traps:		
Fly, boxed	1½	
Rat, in bundles, O. R	1	
Rat, boxed	2	
Trays:		
Gas house or purifying trays in bundles, boxed or crated	3	B
Corned-beef trays	1½	
Trellises, wooden, in bxs. or crates	1½	
2263		
Tree-protectors, iron or wood:		
Set up, O. R	1	
K. D. and nested	3	
Tree-pruners, in bundles	1	
Trough-hangers, wire, in boxes or barrels	3	
Trousers-stretchers	2	
Trucks (hand):		
Express, baggage, or warehouse	1	A
Warehouse, K. D., flat, boxed or crated	3	
Trucks, house-moving, strapped	2	A
Trunks:		
Trunk boxes, in the white:		
N. O. S	1½	B
Nested	1	B

	L. C. L.	C. L.
Trunk handles, leather in barrels	2	B
Trunk slats, wooden, in bundles	2	B
Trunk tops nested in bundles, or crates	3	B
Trunks in the white, unfinished, K. D., in bundles or crates	B	
Trunks:		
Empty, released	1½	
Nested, wrapped with burlaps or paper	1	
Filled with valises, wrapped with burlaps or paper	1	
Filled with goods, (except personal effects), boxed, strapped, released	1	
NOTE.—Shipments of trunks, filled with goods, should not be accepted unless boxed (completely enclosed), strapped and released.		
Frames, iron, valise or satchel, boxed	2	
Iron trunk trimmings, in boxes, kegs or barrels	2	
2264		
Traveling bags:		
O. R.	D 1	
Boxed	1	
Tubs, steel, coal-hoisting	3	5
Tubs, laundry:		
Indurated fibreware, boxed or crated	2	
Wooden, zinc lined, crated	2	
Turtles, packed in barrels, O. R., released	1	
Tayeres, clay (boxed) or iron	3	
Type, boxed	2	
Type-cleaning compound, boxed	3	
Typewriter with covers, boxed, O. R.	D 1	
Typewriter cabinets boxed, wrapped or crated released.	1	
U.		
Umbrellas, boxed	1	
Umbrella ribs, sticks and stretchers, boxed	2	
V.		
Vaporizers, iron, in boxes or crates	3	
Varnish:		
In wood O. R.	2	
In cans (round or square), boxed, or in tin kegs, flat tops, enclosed in veneer jackets, O. R.	1	
In tin cans, jacketed, O. R.	1½	
In barrels, half barrels or kegs, valuation not over ten ($10.00) dollars per barrel, and so stated on dray ticket or shipping receipt by shippers	3	4

2265	L. C. L.	C. L.
Vaseline:		
In glass or cans, boxed	1	
In bulk, in barrels	2	
Vault and prison work;		
Iron vault and prison work	3	5
Vault lights	4	
Vegetables:		
Asparagus	..	C
Beets	..	C
Cabbage, O. R., P. P. or guaranteed:		
In sacks, O. R	3	C
In bxs., crates, brls., or hhds	4	C
Loose C. R	..	C
Cabbage, loose, less than C. L. not taken:		
Carrots, cauliflower, cucumbers	..	C
Egg-plant	..	C
Green corn, green peas	..	C
Horse-radish roots, in brls., or boxes, O. R., P. P	2	C
Lettuce	..	C
Melons	..	C
Onions or onion sets:		
In sacks or barrels, O. R	3	C
In bulk O. R	..	C
Oyster-plant	..	C
Parsnips	..	C
Potatoes, N. O. S.:		
In sacks or barrels O. R	4	C
In bulk O. R	..	C
Potatoes, sweet, O. R	2	C
Pumpkins, in packages, O. R	3	C
Radishes, rhubarb (pie-plant)	..	C
Spinach, string-beans	..	C
Squash, in packages	3	C
2266 Tomatoes	..	C
Turnips:		
In sacks or barrels, O. R	4	C
In bulk O. R	..	C
Beans, including castor-beans, peas and split peas dried:		
In sacks	3	5
In barrels	4	5
In bulk	..	5
Celery	1	3
Chicory	2	4

Vegetables—concluded.

	L. C. L.	C. L.
Chili:		
Ground, in sacks, O. R.	1	
In natural state, O. R.	2	
Garlic	1	
Pumpkins, dried or desic-ated, in cans, bxs. bbls., or sacks, released	3	4
Vanilla beans	D 1	
Vegetables, N. O. S., O. R., P. P. (see also preserves)	1	
Vegetables, dried, N. O. S. or desic-ated, in cans or boxes (see also preserves)	4	5
Vegetable ivory-nuts, packed	3	

Vehicles and parts of:

Buggies, carriages, sleighs, and other light vehicles, also parts thereof, released, and at O. R. of chafing, fire, weather and breakage, min. wt. 12,000 pounds. 3

Provision for third-class rating on buggies, carriages, sleighs, and other light vehicles, in car-loads, is applicable upon passenger vehicles, exclusive only
2267 of freight wagons, trucks, sleighs and sleds.

NOTE.—The charges on any shipment of vehicles, above enumerated, should not exceed what would accrue by the application of class A rates based on min. wt. of 20,000 lbs.

Vehicles, N. O. S. also parts thereof, released and at owner's risk of chafing, fire, weather and breakage .. A

Vehicles, light and heavy, N. O. S. and parts thereof .. A

Vehicles, also parts of vehicles, returned to manufacturers for repairs, will be charged half-tariff rates when returned by same railroad or railroads as originally forwarded; when returned by other railroad or railroads than originally forwarded by, full tariff rates will be charged.

NOTE.—Provisions for vehicles above shown, do not apply on bicycles, tricycles, velocipedes or children's vehicles.

Vehicles, set up or knocked down, and parts thereof, released and at owner's risk of chafing, fire, weather or breakage, in less than car-loads, as follows:

Buggies:

Single and jump seat with top:

S. U. 3,000 pounds each	1	
Taken apart (wheels and shafts or pole detached), and loaded in box car	1	

Vehicles—continued.

		L. C. L.	C. L.
2268	Single and jump seat, including buck-boards:		
	Without tops, set up 2,000 lbs. each	1	
	Without top, taken apart (wheels and shafts or pole detached), and loaded in box car, 1,500 lbs. each	1	
	Buggies, including buck-boards, boxed or crated, sufficiently K. D. to be loaded in box car	1½	
	Carriages:		
	Ambulance, cab (two-wheeled) Kensington, phaeton (extension top and park) surr-y (two-seated) T-cart, victoria (or cabriolet) two-seated carriages, N. O. S., set up, 4,000 lbs. each	1	
	Brougham (coupé or coupélette), coach (Berlin, mail or stage), hearse, herdic (four-wheeled), landau (or barouche), landaulet, omnibus, rockaway, wagonette (or carryall), three-seated carriages, N. O. S., set up, 5,000 lbs. each	1	
	Ambulances and hearses K. D., boxed or crated, loaded in box car	1½	
	Carriages, boxed or crated, sufficiently K. D. to be loaded in box car	1½	
	Carts:		
	Dump, hand or mining:		
	Set up	1½	
	K. D.	1	
2269	Road, speeding or training, set up, 750 lbs. each.	1	
	Road, taken apart and loaded in box cars	D 1	
	Village or phaeton carts, set up, 1,500 lbs. each	1	
	Carts, K. D., wrapped	D 1	
	Carts, boxed or crated, sufficiently K. D. to be loaded in box car	1½	
	NOTE.—Carts, road, crated, should meet the following requirements, viz: Vehicles to be protected on all sides by boards from exposure to rubbing, chafing or breakage.		
	Drays:		
	S. U	1½	
	K. D.	1	
	Sleds, bob:		
	S. U	D 1	
	Tongue and reach taken out	1	
	K. D. in pieces, tied in bundles	2	

Vehicles—continued.

		L. C. L.	C. L.
	Sleighs:		
	S. U.	3	t 1
	S. U. boxed or crated	2½	t 1
	K. D. loaded in box car	2½	t 1
	K. D. (bodies and shafts removed) all parts crated or boxed	D	1
	Sleigh bodies	3	t 1
	Sulkies, including four-wheel skeleton racing wagons:		
	Not K. D. and boxed, 500 pounds each		1
	K. D. and boxed	D	1
	Trucks, logging and logging wagons		3
2270	Vehicles, N. O. S. taken apart (wheels and shafts or tongues detached) and loaded in box cars	3	t 1
	Wagons, express, peddler or sewing machine, N. O. S. and oil-delivery wagon with square galvanized-iron tanks:		
	S. U., 3,000 lbs. each		1
	Taken apart, loaded in box car, 1,500 lbs. each		1
	Boxed or crated, loaded in box car, actual wt		1½
	Wagons, beer, hose, ice, oil tank (cylinder), sprinkling, platform-spring truck, and two-horse express, peddler or transfer:		
	S. U. 4,000 lbs. each		1
	Taken apart (wheels and shafts or poles taken off and loaded in box car), minimum weight 2,000 pounds, each		1
	Wagons, Democrat spring:		
	S. U., 3,000 lbs. each		1
	Taken apart, loaded in box car, 1,500 lbs. each		1
	Boxed or crated, sufficiently K. D. to be loaded in box car, actual weight		1½
	Wagons, common or farm:		
	S. U., 3,000 lbs. each		1
	K. D. in pieces, loaded in box car, actual weight		1
2271	Wagons, fire (used by street-pavers) taken apart (wheels and shafts or pole detached) and loaded in box car		1
	Vehicles, parts of, as follows:		
	Axle couplings		2
	Buggy, carriage and cart bodies, bottoms and seats, N. O. S., finished or unfinished, with or without springs and axles, boxed or crated		1½

Vehicles, parts of—continued.

	L. C.	L. C.
Buggy, carriage or wagon tops:		
S. U. boxed or crated	3 t	1
Folded, flat or wrapped	D	1
Flat, boxed or crated		1½
Buggy, cart or carriage, poles or shafts		1½
Buggy or carriage steps, iron in bundles or boxes		1
Carriage-bow sockets, boxed, released		2
Carriage-top braces, boxed		3
Buggy, carriage or cart seat backs, cushioned, in bundles, bales or crates		1
Cushions, buggy, carriage or wagon, in bundles or bales O. R.		1
Dash-boards, leather, boxed, O. R.		1
Equalizers, for trucks, wagons and agricultural implements:		
Finished		2
In the white (not further finished than primed or shellaced), ironed		3
Platform gears, in the white, without springs or axles		2
Iron caps for wagon poles or shafts:		
In bundles		1
In boxes or barrels		3
2272		
Jacks, hand, wagon:		
Loose		1
Boxed or crated		2
Shafts, buggy, carriage, cart or wagon, finished or unfinished, K. D. in bundles		1
Running gear, buggy, cart or carriage (including wheels N. O. S.) K. D., in crates, boxes or bundles		1½
Seats, buggy or carriage, iron backed, nested, in boxes or crates		2
Sled runners, wooden or iron, in bundles		3
Sleigh bodies:		
Boxed or crated	D	1
Nested, boxed or crated		1½
Sleigh runners, wooden or iron, in bundles		2
Spokes:		
In the white (not further finished than primed or shellaced)		3
Wagon, finished		2
Buggy, carriage or cart, finished		1

Vehicles, parts of—continued.

		L. C.	L. C.
	Wagon beds:		
	S. U.	D	1
	K. D. in bundles		1
	Wagon brakes and locks, boxed or crated		3
	Wagon poles, finished		1½
	Wagon seats, wood, crated or boxed		1
	Wagon-tongue supports		2
	Wagons, finished parts of, N. O. S.		1¼
	Wheel flanges, cast iron, in boxes, casks or barrels.		4
2273	Wheels, wagon, N. O. S.		1
	Wheels, wagon or carriage, in the white (not further finished than primed or shellaced)		1
	Wheels, carriage, cart, spring wagon, or buggy		1½
	Whiffletrees, neck-yokes, singletrees, and doubletrees, for buggies, carts or carriages:		
	Finished		1
	In the white (not further finished than primed or shellaced), iron		2
	Whiffletrees, neck-yokes, singletrees and doubletrees, for trucks, wagons and agricultural implements:		
	Finished		2
	Dipped (not painted), ironed		3
	In the white (not further finished than primed and shellaced), ironed		3
	Eveners and poles for trucks, wagons or agricultural implements, in the white (not further finished than primed or shellacked), ironed		3
	Vehicles, children's at O. R. of chafing or breakage, as follows:		
	Children's carriages, carts, sleds, sleighs, velocipedes, bicycles, and tricycles, wagons and wheelbarrows, boys' toy hook-and-ladder trucks and hobby-horses, min. wt. 10,000 pounds	..	3
	Boys' toy hook-and-ladder trucks, K. D. boxed or crated		2
2274			
	Carriages, baby or children's:		
	Set up, wrapped	3 t	1
	Set up, boxed or crated	D	1
	K. D., flat, one carriage in each box or crate		1½
	K. D., flat, two or more packed together in box or crate		1

Vehicles, children's—concluded.

	L. C. L.	C. L.
Children's carriages, to be entitled to the K. D. rating, should have wheels and canopies detached, the springs removed or unfastened, and the bodies brought down flat on the reaches. Where bodies are mounted on springs, shipments are ratable as set up.		
Carriages, baby or children's, parts of, N. O. S., packed in boxes or crates	1½	
Carts and wheelbarrows, children's, K. D. flat, boxed or crated	2	
Self-propelling wagons, children's, boxed or crated, O. R	1	
Sleds and sleighs, children's:		
S. U	D 1	
K. D. flat, boxed or crated	1	
Sleds, clipper, nested, crated or securely cleated	1	
Velocipedes, iron, children's, boxed	1	
Wagons, carts and wheelbarrows, children's:		
S. U	D 1	
Boxed or crated	1½	
K. D., in bundles	1	
Wagons, children's, K. D. boxed or crated	2	
2275 Ventilators, windows, boxed	1	

W.

Wagon, carriage and plow material.

Wagon, carriage and sleigh wood:		
Bent (not further finished)	2	B
Sawed or turned (not further finished)	4	B
Lumber may be loaded with wagon, carriage and sleigh wood, in mixed car-loads, at class B rates.		
Wagon wood, in the rough, sawed to dimensions (not further finished) (see lumber tariff)	4	
Wagon, carriage and plow material:		
Axles (iron and wood)	..	A
Bows, brakes	..	A
Doubletrees	..	A
Felloes	..	A
Gearing	..	A
Hubs	..	A
Neck-yokes	..	A
Plow beams and handles	..	A
Shafts, singletrees, spokes, springs	..	A

	L. C. L.	C. L
Thimble skeins, tongues	..	A
Wagon and plow malleable castings	..	A
Wagon wood	..	A
Wheels	..	A
Warp and beams	1	
Wash-benches, K. D. or folded	2	
Washing machines, hand:		
Not boxed or crated	D 1	
Boxed or crated O. R	1	
Min. wt. 10,000 pounds	..	3
Wash tanks or boxes, for saloon counters, boxed or crated	2	
2276		
Waste and cotton linters:		
In bags, O. R	1	4
In bales, O. R	3	4
Wax figures, images, skeletons and museum outfits, N. O. S. (exclusive of human beings and at the option of any of the r'y companies to refuse to transport same under any circumstances) completely bxd., released and P. P	3 t 1	
When car-load contains live stock one man in charge will be passed free. No return pass.		
Wax:		
Beeswax	1	
Mineral wax, crude	4	A
Paraffine wax, in brls. or boxes	2	4
Wax, N. O. S	1	
Weather strips, in bundles	1	3
Welding compound, in bxs. or brls	3	
Well augers:		
In frame or S. U	1½	A
K. D. in pieces	1	A
Completely K. D. and boxed	2	A
Well-borers' outfits (second hand)	1	A
Wheels:		
Master wheels, N. O. S	2	
Propeller wheels, iron, O. R	2	
Wheels, iron, N. O. S	3	5
Wheels, iron, for children's vehicles	3	5
Wheels, N. O. S. in crates or bundles	D 1	

	L. C. L.	C. L.
Wheelbarrows:		
N. O. S.	1	A
2277 K. D. flat and compact (trays or seats to be moved from frames and nested together in bundles, frames to be tied or fastened together in bundles, legs detached or laid down flat, wheels to be also detached and tied together or packed)	2	A
K. D. flat and compact (wheels removed and packed flat in trays, legs and braces packed) in trays or laid down flat	2	A
(See also scrapers.)		
Wicking	1	
Willow-ware:		
Boxed	D 1	
Not boxed	3 t 1	
Windlasses	1	
Windmills, in pieces, O. R	1	A
Windmill tanks, in pieces, O. R	3	B
Windmills and iron pumps	..	A
Windmill towers and timber prepared for same	3	B
Windmills, windmill pumps, windmill tanks, windmill towers, timber prepared for windmill towers, and agricultural implements	..	A
Window shades, curtains and fixtures:		
Curtain exhibitors:		
N. O. S.	1	
In boxes, barrels or crates	2	
Curtain or shade rollers or slats, window and fixtures, boxed, released	2	4
Curtain rods or poles, N. O. S., boxed, released	1	4
Curtain poles, wooden and fixtures for same, boxed or crated, released	3	4
2278 Paper curtains, O. R	1	
Venetian blinds, boxed or crated	1	4
Window-curtain cornices, boxed, released	1	
Window-shade cloths, boxed	1	
Window shades and fixtures, N. O. S. boxed	1	
Wire:		
Brass or copper, plain or insulated	2	4
Cable	4	5
Fence, barbed and telegraph	4	5
Iron, covered or insulated	4	5
Rope, copper, in coils or on reels	2	4
Steel or iron, plain, coppered or galvanized, in bundles, rolls, bxs., brls. or casks	4	5

		L. C.	L.	C.	L.
	Woven for mattresses:				
	In rolls, boxed		3		3
	In car-loads		..		3
	Wire N. O. S		2		
	Wire articles:				
	Baskets, farmers', common, nested		1		
	Box straps, in bundles or on reels		4		5
	Cloth, released		2		4
	Goods N. O. S.:				
	O. R	D	1		
	Flat or nested, boxed		1		
	Netting (not wire cloth) in rolls		3		
	Rope, N. O. S		4		
	Stall guards, in bundles		2		
	Table furniture, boxed, released		1½		
	Window guards, for prisons and asylums		3		5
	Wire reels, K. D		3		C
	Wire-work, N. O. S	D	1		
2279	Wood ashes		..		E
	Wood, petrified, N. O. S		3		5
	Wood pulp		3		C
	Wood for pulp		..		E
	Wooden and fibre ware, consisting of the following articles:				
	Bail boxes, barrels, bowls, min. wt. 10,000 pounds		..		4
	Buckets, bungs, min. wt. 10,000 lbs		..		4
	Butter boxes (plain or parraffined) min. wt. 10,000 lbs		..		4
	Butter ladles, butter moulds, min. wt. 10,000 lbs		..		4
	Butter plates or trays, min. wt. 10,000 lbs		..		4
	Butter tubs (plain or lined with glass or tin) min. wt. 10,000 lbs		..		4
	Cheese boxes, churns (hand) min. wt. 10,000 pounds		..		4
	Clothes-horses, clothes-lifters, min. wt. 10,000 pounds		..		4
	Clothes-pins, clothes-racks, min. wt. 10,000 lbs		..		4
	Drums (wooden, set up) min. wt. 10,000 lbs		..		4
	Firkins, fish kits, min. wt. 10,000 lbs		..		4
	Kegs, min. wt. 10,000 lbs		..		4
	Lap-boards, min. wt. 10,000 lbs		..		4
	Measures, N. O. S. min. wt. 10,000 lbs		..		4
	Pastry-boards, potato-mashers, min. wt. 10,000 lbs		..		4
	Rolling pins, min. wt. 10,000 lbs		..		4
	Skirt-boards, min. wt. 10,000 lbs		..		3
	Tea-caddies, (wood) min. wt. 10,000 lbs		..		4
2280	Trays N. O. S., tubs, min. wt. 10,000 lbs		..		4
	Wash-boards, min. wt. 10,000 lbs		..		4
	Water pails (wooden or paper) min. wt. 10,000 lbs		..		4

Wooden and fibre ware—concluded.

	L. C. L.	C. L.
Articles above enumerated:		
N. O. S., min. wt. 10,000 pounds.	1	
In boxes, brls. or crates, min. wt. 10,000 lbs.	2	4
Barrel covers, boxed or crated min. wt. 10,000 pounds.	2	4
Butter tubs and covers, nested, in bundles securely fastened with wood strips min. wt. 10,000 lbs.	2	4
Wash-boards in bundles, securely cleated	2	4
Pails, (wooden, paper or fibre ware), wrapped with straw-board and encased in paper sacks, min. wt. 10,000 lbs.	2	4

NOTE.—Baskets, ladders not exceeding 12 feet in length, handles (axe and mop) and wooden plates may be included with the above articles of woodenware in car-loads.

Woodenware, N. O. S., including ironing boards, lemon-squeezers, rope-reels, shot-cases, sieve-rims, skewers, snow-shovels, spice cabinets, towel-racks, wooden faucets, wooden scoops, wooden spoons:		
N. O. S. (any quantity)	1	
In boxes, barrels or crates (any quantity)	2	
2281		
Wool:		
In sacks	2	
Compressed in bales	3	

The rating (3d class) provided for wool, compressed in bales, should be understood as applying upon solid, compact and heavy packages or single bales bound with rope, or with iron or wire hoops or bands. Several sacks containing wool strapped together, should take second-class rates as wool in sacks.

Work-benches:		
S. U.	1½	
Carpenters', machinists', or cabinet-makers' K. D. boxed	3	
Wrenches:		
Monkey or screw, boxed	2	
Cast-iron, boxed	4	
Wringers, clothes, hand:		
N. O. S.	D 1	4
Boxed or crated	2	4

	Z.	L. C. L.	C. L
Zinc:			
Dross		4	D
Pigs or slabs		4	5
Sheet, in casks		4	5
Sheet or roll not packed		1	
Scrap, in bales		4	

(See also junk.)

Switching charges.

The reasonable maximum rate for switching loaded cars for distances not exceeding five miles shall be two dollars per car.

2282 Maximum rates for transportation.

SEC. 3. That each of the railroads in the State of Nebraska shall charge, for the transportation of freight from any point in said State to any other point in said State, no higher or greater rate or charge, than is by this act fixed as the reasonable maximum rate for the distance hauled, and the reasonable maximum rates for the transportation of freight by railroad from any point in the State of Nebraska to any other point in said State, are declared and established to be as hereinafter in this section fixed for the distance named, and any higher or greater rate for the distance hauled than that herein fixed and established, is prohibited and declared to be unlawful; and the reasonable maximum rate herein fixed and established shall be known as the Nebraska schedule of reasonable maximum rates.

Nebraska Schedule of Reasonable Maximum Rates—Merchandise Rates in Cents per 100 *Pounds.*

Rates per 100 pounds.

Miles.	1st class.	2d class.	3d class.	4th class
5	13	11	9	7
10	15	12.5	10	7.5
15	16	14	10.5	8.5
20	16.5	14.5	11	9
25	17	15	11.7	9.5
30	18	15.5	12.2	10
35	20	16	13	10
40	22	17	14	11
45	22	18	14	11
50	24	19	14.5	12
55	24	20	15	12

2283 *Rates per* 100 *Pounds—Continued.*

Miles.	1st class.	2d class.	3d class.	4th class.
60	24	21	16	13
65	26	22	17	14
70	27	23	17.5	15
75	28	23	18	16
80	28	23.5	18.5	17
85	28	24	19	18
90	29	24	19.5	18
95	29	24.5	20	19
100	29	25	21	20
105	29.5	25.5	21.5	20.5
110	29.5	26	22	21
115	30	27	24	21.5
120	32	29	26	22
125	32	30	27	22
130	34	31	28	22
135	35	33	29	22.5
140	37	34	30	23
145	39	35	31	23.5
150	41	36	32	24
155	42	38	34	26
160	44	40	36	28
165	46	41	37	30
170	48	42	38	32
175	48	43	39	32.5
180	48	44	40	33
185	50	45	40.5	33.5
190	52	46	41	34
195	53	47	42	35
200	55	48	43	36
210	55.5	49	44	37
220	56	50	45	38
230	57	51	45.5	39
240	58	52	46	40
2284				
250	58.5	53	47	41
260	59	54	48	42
270	60.5	55	49.5	43
280	62	56	51	44
290	62	56.5	51.5	45
300	62	57	52	46
310	63	57.5	53	47
320	64	58	54	48
330	65	59	55	49
340	66	61	56	50
350	69	62	57.5	51

Rates per 100 *Pounds—Concluded.*

Miles.	1st class.	2d class.	3d class.	4th class.
360	72	63	59	52
370	72.5	63.5	59.5	53
380	73	64	60	54
390	73.5	65	61	55
400	74	66	62	56
410	77	68	63	57
420	80	70	64	58
430	82	72	65	59
440	84	74	66	60
450	86	76	67	61
460	88	78	68	62
470	90	80	69	63
480	92	82	70	64
490	94	84	71	65
500	96	86	72	66

2285 *Special Car-load Classes in Cents per* 100 *Pounds.*

Special car-load classes per 100 pounds.

Miles.	5th class.	Class A.	Class B.	Class C.	Class D.	Class E.
5	5	5	4	3	3	2
10	6	6	5	4	3	2
15	6	7	6	5	4	2
20	7	8	6	5	4	2.5
25	7	8	6	5	4	2.5
30	8	8	6	5	4	2.5
35	9	9	7	6	5	3
40	10	10	7	6	5	3.5
45	10	10	7	6	5	3.5
50	10	10	8	7	6	3.5
55	10	10	8	7	6	4
60	10	11	8	7	6	4
65	11	11	9	7	6	4
70	12	12	9	8	6	4
75	12	12	9	8	6	4
80	13	13	9	8	6	4.5
85	14	14	10	9	7	5
90	14	14	10	9	7	5.5
95	15	15	10	9	7	5.5
100	16	16	11	9	7	6
105	16.5	16.5	11	9.5	7	6
110	17	17	11	10	7	6
115	17.5	17.5	11.5	10.5	7.5	6
120	18	18	12	11	8	6
125	19	19	12.5	11	8	6

Special Car-load Classes per 100 *Pounds—Continued.*

Miles.	5th class.	Class A.	Class B.	Class C.	Class D.	Class E.
130	20	20	13	11	8	6
135	20	20	13	11.5	8	6
140	20	20	13	12	8	6
145	21	22	13.5	12.5	8.5	6.5
150	22	23	14	13	9	6.5
2286						
155	23	23	14.5	13.5	9.5	6.5
160	24	24	15	14	10	6.5
165	25	25	15	14	10	6.5
170	26	26	15	14	10	6.5
175	27	27	15.5	14.5	10.5	7
180	28	28	16	15	11	7
185	29	28	17	15.5	11	7
190	30	28	18	16	11	7
195	30.5	28.5	19	16.5	11.5	7.5
200	31	29	20	17	12	8
210	31.5	29	20.5	17	12	8.5
220	32	29	21	17	12	9
230	33	29.5	21.5	17.5	12.5	9.5
240	34	30	22	18	13	10
250	35	30.5	22.5	18.5	13.5	10
260	36	31	23	19	14	10.5
270	37	31.5	24	19.5	14	10.5
280	38	32	25	20	14	11
290	38.5	32	25.5	20	14.5	11.5
300	39	32	26	20	15	12
310	39	32.5	26.5	20.5	15.5	12.5
320	39.5	33	27	21	16	13
330	39.5	33.5	27.5	21.5	16.5	13
340	40	34	28	22	17	13.5
350	40	35	29	23	17.5	15.5
360	40	36	30	24	18	14
370	40	37	31	25	18.5	14.5
380	40	38	32	26	19	15
390	41	39	33	26.5	19.5	15.5
400	42	40	34	27	20	16
410	43	41	34.5	27.5	20.5	16.5
420	44	42	35	28	21	17
430	45	43	35.5	28.5	21.5	17.5
2287						
440	46	44	36	29	22	18
450	47	45	36.5	29.5	22.5	18.5
460	48	46	37	30	23	19

Special Car-load Classes per 100 *Pounds—Concluded.*

Miles.	5th class.	Class A.	Class B.	Class C.	Class D.	Class E.
470.....	49	47	37.5	30.5	23.5	19
480.....	50	48	38	31	24	19
490.....	51	49	38.5	31.5	24.5	19
500.....	52	50	39	32	25	19

Car-load Classes in Cents per 100 *Pounds.*

Car-load classes per 100 pounds.

Miles.	Wheat, flour, millet, flaxseed.	Corn, oats, barley, and other grains and mill-stuffs.	Hard and soft lumber, laths, shingles, doors, sash, and blinds.	Salt, lime, cement, stucco.
5.....	4	4	4	3
10.....	4	4	4	3
15	4½	4½	4½	3
20	5	5	5	3½
25.....	5	5	5	3½
30.....	5½	5½	5½	4
35.....	6	6	6	4½
40.....	6½	6½	6½	5
45.....	7	7	7	5½
50.....	7	7	7	5½
55.....	7	7	7	5½
60	7½	7	7	5½
65.....	8	7	7	5½
70.....	8½	7½	7½	6
75.....	9	8½	8	6
80.....	9½	8½	8	6½
85.....	10	8½	8	6½
90....	10.5	8.5	6	8.3
95.....	10.5	9	6	8.6
100.....	10.5	9	6	9
105.....	10.5	9.5	6	9.3
2288				
110.....	11	10	6.5	9.6
115.....	11	10	6.5	9.9
120.....	11	10	7	10.2
125.....	11.5	10	7.5	10.5
130.....	12	10	8	10.8
135.....	12	10	8.5	11
140.....	12	10	9	11.3
145.....	12.5	10.5	9	11.5
150.....	13	11	9	12
155.....	13	11	9.5	12.1

Car-load Classes per 100 *Pounds—Concluded.*

les.	Wheat, flour, millet, flaxseed.	Corn, oats, barley, and other grains and mill-stuffs.	Hard and soft lumber, laths, shingles, doors, sash, and blinds.	Salt, lime, cement, stucco.
).....	13	11	10	12.2
5.....	13.5	11.5	10.5	12.3
).....	14	12	11	12.4
5.....	14	12	11	12.5
).....	14	12	11	12.6
5.....	14	12	11	12.7
).....	14	12	11	12.8
5.....	14	12 5	11	12.9
).....	14	13	11	13
).....	14.5	13	11.5	13.5
).....	14.5	13	12	14
).....	14.5	13	13	14.5
).....	14.5	13	14	15
).....	14.5	13.5	14.5	15.5
).....	14.5	14	15	16
).....	14.5	14	15.5	16.5
).....	15	14	16	17
).....	15	14	16.5	17.5
).....	16	14	17	18
).....	16	14	17.5	18.5
).....	16	14	18	19
89				
0.....	16.5	14.5	18.5	19.5
0.....	17	15	19	20
0.....	17	15	19.5	20.5
0.....	17	15	20	21
0.....	17.5	15.5	20.5	21.5
0.....	18	16	21	22
0.....	18	16	21.5	22.5
0.....	18	16	22	23
0.....	18.5	17	22.5	24
0.....	19	18	23	25
0.....	19.5	18	23.5	26
0.....	20	18.5	24	28
0.....	20.5	19	24.5	29
0.....	21	19.5	25	30
0.....	21	19.5	25.5	31
0.....	21.5	19.5	26	33
0.....	21.5	20	26.5	34
0.....	22	20	27	35

Live Stock in Dollars per Car, Thirty-one (31) *Foot Cars, Inside Measurement.*

Miles.	Live stock per car. Horses and mules in car-loads, min. weight 20,000 lbs.	Fat cattle in car-loads, min. wt. 19,000 lbs.	Hogs (single deck) in car-loads, min. weight 15,000 lbs.	Sheep (single deck) in car-loads, min. weight 10,000 lbs.
5.....	10.75	9.75	8.50	8.40
10.....	11.50	10.50	9.00	8.80
15.....	12.25	11.25	9.50	9.20
20.....	13.00	12.00	10.00	9.60
25.....	13.75	12.75	10.50	10.00
30.....	14.50	13.50	11.00	10.40
35.....	15.25	14.25	11.50	10.80
40.....	16.00	15.00	12.00	11.20
2290				
45.....	16.75	15.75	12.50	11.60
50.....	17.50	16.50	13.00	12.00
55.....	18.25	17.00	13.50	12.40
60.....	19.00	17.50	14.00	12.80
65.....	19.75	18.00	14.50	13.20
70.....	20.50	18.50	15.00	13.60
75.....	21.25	19.00	15.50	14.00
80.....	22.00	19.50	16.00	14.40
85.....	22.75	20.00	16.50	14.80
90.....	23.50	20.50	17.00	15.20
95.....	24.25	21.00	17.50	15.60
100.....	25.00	21.50	18.00	16.00
105.....	25.50	21.90	18.30	16.30
110.....	26.00	22.30	18.60	16.60
115.....	26.50	22.70	18.90	16.90
120.....	27.00	23.10	19.20	17.20
125.....	27.50	23.50	19.50	17.50
130.....	28.00	23.90	19.80	17.80
135.....	28.50	24.30	20.10	18.10
140.....	29.00	24.70	20.40	18.40
145.....	29.50	25.10	20.70	18.70
150.....	30.00	25.50	21.00	19.00
155.....	30.50	25.90	21.30	19.30
160.....	31.00	26.30	21.60	19.60
165.....	31.50	26.70	21.90	19.90
170.....	32.00	27.10	22.20	20.20
175.....	32.50	27.50	22.50	20.50
180.....	33.00	27.90	22.80	20.80

Live Stock per Car—Concluded.

Miles.	Horses and mules in car-loads, min. weight 20,000 lbs.	Fat cattle in car-loads, min. wt. 19,000 lbs.	Hogs (single deck) in car-loads, min. weight 15,000 lbs.	Sheep (single deck) in car-loads, min. weight 10,000 lbs.
85.....	33.50	28.30	23.10	21.10
90.....	34.00	28.70	23.40	21.40
95.....	34.50	29.10	23.70	21.70
291				
00.....	35.00	29.60	24.00	22.00
10.....	35.75	30.40	24.80	22.30
20.....	36.50	31.30	25.60	22.70
30.....	37.25	32.20	26.40	23.10
40.....	38.00	33.10	27.20	23.50
50.....	38.75	34.00	28.00	23.90
60.....	39.50	34.90	28.80	24.30
70.....	40.25	35.80	29.60	24.70
80.....	41.00	36.70	30.40	25.10
90.....	41.75	37.60	31.20	25.50
00.....	42.50	38.50	32.00	25.90
10.....	43.20	39.00	32.50	26.70
20.....	43.90	39.50	33.00	27.10
30.....	44.60	40.00	33.50	27.50
40.....	45.30	40.50	34.00	27.90
50.....	46.00	41.00	34.50	28.30
60.....	46.70	41.50	35.00	28.70
70.....	47.40	42.00	35.50	29.10
80.....	48.10	42.50	36.00	29.50
90.....	48.80	43.00	36.50	29.90
00.....	49.50	43.50	37.00	30.31
10.....	50.20	44.00	37.50	30.74
20.....	50.90	44.50	38.00	31.18
30.....	51.60	45.00	38.50	31.62
40.....	52.30	45.50	39.00	32.06
50.....	53.00	46.00	39.50	32.50
60.....	53.70	46.50	40.00	32.94
70.....	54.40	47.00	40.50	33.38
80.....	55.10	47.50	41.00	33.82
90.....	55.80	48.00	41.50	34.26
00.....	56.50	48.50	42.00	34.70

2292 *Coal in Cents per Ton of 2,000 lbs.*

Coal per ton.

Miles.	Hard coal.	Soft coal, lump and nut.	Soft coal, pea and slack.
5	.60	.30	.25
10	.64	.34	.28
15	.68	.38	.31
20	.72	.42	.34
25	.76	.46	.37
30	.80	.50	.40
35	.84	.54	.43
40	.88	.58	.46
45	.92	.62	.49
50	.96	.66	.52
55	1.00	.70	.55
60	1.04	.74	.58
65	1.08	.78	.60
70	1.12	.82	.62
75	1.16	.85	.64
80	1.20	.88	.66
85	1.24	.91	.68
90	1.28	.94	.70
95	1.32	.97	.72
100	1.36	1.00	.74
105	1.40	1.015	.755
110	1.44	1.03	.77
115	1.48	1.045	.785
120	1.52	1.06	.80
125	1.55	1.075	.815
130	1.58	1.09	.83
135	1.61	1.105	.845
140	1.64	1.12	.86
145	1.67	1.135	.875
150	1.70	1.15	.89
155	1.73	1.165	.905
2293			
160	1.76	1.18	.92
165	1.79	1.195	.935
170	1.82	1.21	.95
175	1.85	1.225	.965
180	1.88	1.24	.98
185	1.91	1.255	.995
190	1.94	1.27	1.01
195	1.97	1.285	1 025
200	2.00	1.30	1.04

Coal per Ton—Concluded.

Miles.	Hard coal.	Soft coal, lump and nut.	Soft coal, pea and slack.
210	2.04	1.32	1.06
220	2.08	1.34	1.08
230	2.12	1.36	1.10
240	2.16	1.38	1.12
250	2.20	1.40	1.14
260	2.24	1.42	1.16
270	2.28	1.44	1.18
280	2.32	1.46	1.20
290	2.36	1.48	1.22
300	2.40	1.50	1.24
310	2.44	1.52	1.25
320	2.48	1.54	1.26
330	2.52	1.56	1.27
340	2.56	1.58	1.28
350	2.60	1.60	1.29
360	2.64	1.62	1.30
370	2.68	1.64	1.31
380	2.72	1.66	1.32
390	2.76	1.68	1.33
400	2.80	1.70	1.34
410	2.84	1.72	1.35
420	2.88	1.74	1.36
430	2.92	1.76	1.37
440	2.96	1.78	1.38
2294			
450	3.00	1.80	1.39
460	3.04	1.82	1.40
470	3.08	1.84	1.41
480	3.12	1.86	1.42
490	3.16	1.88	1.43
500	3.20	1.90	1.44

Railroads exempt from act.

SEC. 4. All railroads or parts thereof which have been built in this State since the first day of January, 1889, or may be built before the 31st day of December, 1899, shall be exempt from the provisions of this act until the 31st day of December, 1899.

Relief from act.

SEC. 5. Whenever any railroad company or companies in this State shall, in a proper action show by competent testimony that the schedule of rates prescribed by this act are unjust and unreasonable, such railroad or railroads shall be exempt therefrom as

hereinafter provided. All such actions shall be brought before the supreme court, in the name of the railroad company or companies bringing the same, and against the State of Nebraska, and upon the hearing thereof, if the court shall become satisfied, that the rates herein prescribed are unjust in so far as they relate to the railroad bringing the action, may issue their order directing the board of transportation to permit such railroad to raise its rates to any sum in the discretion of the board; Provided, that in no case shall the rates so raised be fixed at a higher sum than that charged by such railroad on the first day of January, 1893. Whenever any railroad company in this State shall claim the benefit of the pro-
2295 visions of this section, it shall be the duty of such railroad company, to show to the court all matters pertaining to the management thereof, and if it shall appear that said railroad company is operating branch lines of railroad in connection with its main line, and all included in one system, then, and in that case, it shall be the duty of the railroad company to show to the court upon which branch or branches, or upon which portion of such system the schedule of rates prescribed in this act is unjust and unreasonable, and only such portions shall be exempted from the provisions thereof; Provided, that in no case shall a
Pooling earnings. railroad company be allowed to pool the earnings of all the lines operated under one management, where more than one line is so operated, for the purpose of lowering the general average.

Board of transportation; reduction of rates of transportation; revision of classification.

SEC. 6. That the board of transportation is hereby empowered and directed to reduce the rates on any class or commodity in the schedule of rates fixed in this act, whenever it shall seem just and reasonable to a majority of said board so to reduce any rate; and said board of transportation is hereby empowered and directed to revise said classification of freight as hereinbefore in this act established, whenever it shall appear to a majority of said board just and reasonable to revise said classification. Provided: that said board of transportation shall never change the classification in this act established, so that by such change of classification, the rates on any freight will become higher or greater than in this act fixed.

When any reduction of rates or revision of classification
2296 shall be made by said board it shall be the duty of said board to cause notice thereof to be published two successive weeks in some public newspaper, published in the city of Lincoln, in this State, which notice shall state the date of the taking effect of such change of rate or classification, and said change of rate or classification so made by the said board and published in said notice, shall take effect at the time so stated in said notice.

Articles not classified or rated. Conflicts between classification and rate schedule.

SEC. 7. That articles not enumerated in said classification in section two (2) of this act established, not rated in said schedule of rates in section three (3) of this act, shall be classed with analogous articles in said classification, and where there is any conflict between said classification and said schedule of maximum rates, said rates shall govern.

Damages for violating act; demand.

SEC. 8. That in case any common carrier subject to the provisions of this act shall do, or cause to be done, or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby, for all damages sustained in consequence of any such violation of the provisions of this act together with cost of suit and a reasonable counsel or attorney's fee, to be fixed by the court in which the same is heard on appeal or otherwise, which shall be taxed and collected as part of the costs in the case; Provided, that in all cases demand in writing on said common carrier shall be made for the money damages sustained before suit is brought for recovery under this section, and that no suit shall be brought until the expiration of fifteen days after such demand.

2297 Penalties for violating act.

SEC. 9. That in case any common carrier subject to the provisions of this act, shall do, or cause to be done, or permit to be done, any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall upon conviction thereof, be fined in any sum not less than one thousand ($1,000) dollars, nor more than five thousand ($5,000) dollars for the first offense; and for the second offense not less than five thousand ($5,000) dollars, nor more than ten thousand ($10,000) dollars; and for the third offense, not less than ten thousand ($10,000) dollars, nor more than twenty thousand ($20,000) dollars; and for every subsequent offense and conviction thereof, shall be liable to a fine of twenty-five thousand ($25,000) dollars; Provided, that in all cases under this act either party shall have the right of trial by jury.

Trial by jury.

Repealing clause.

SEC. 10. All acts and parts of acts inconsistent herewith are hereby repealed.

Approved April 12, A. D. 1893.

2298 Therreupon, afterwards, to wit, on the sixth day of July, 1895, a petition for reviver and substitution was filed in said case; which said petition for reviver and substitution is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES, OAKES AMES, FRANK M. AMES, William Powell Mason, E. Pierson Beebe, Charles J. Merill, Charles F. Choate, Complainants,

vs.

UNION PACIFIC RAILWAY COMPANY, THE ST. Joseph and Grand Island Railroad Company, The Omaha & Republican Valley Railroad Company, The Kansas City & Omaha Railroad Company, George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, Officers of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, Defendants.

Petition for Reviver and Substitution.

Now come Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of whom are officers of the State of Nebraska and as such constitute the State board
2299 of transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants herein, and represent to the court that since the rendition of the decree in this cause and at a general election held on the seventh day of November, 1894, Arthur S. Churchill was duly elected attorney general and Joel A. Piper was duly elected secretary of state and Henry C. Russell was duly elected commissioner of public lands and buildings of the State of Nebraska, and that they were duly installed and qualified as such officers respectively for the State of Nebraska and entered upon their duties as such officers on the third day of January, 1895, and as such officers are members of the State board of transportation of the State of Nebraska in lieu of George H. Hastings, formerly attorney ganeral, and John C. Allen, formerly secretary of state, and A. R. Humphrey, formerly commissioner of public lands and buildings, and therefore petition the court that they may be substituted as defendants in this action in lieu of the said officers last above named,

whose terms expired on the third day of January, 1895, and that this action may be revived in their name as officers composing a part of the State board of transportation, defendants herein, and that your petitioners may be permitted to sue out an appeal from this action to the United States Supreme Court.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER, *Secretary of State,*
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL AND
J. L. WEBSTER, *Their Solicitors.*

JNO. L. WEBSTER, *Of Counsel.*

2300 Upon the back of said petition for reviver and substitution appear endorsements in words and figures following, to wit: No. 59, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* Union Pacific *R.* R'y Co. *et al.* Petition for revivor and substitution by State board of transportation. Filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webster.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a stipulation was filed in said case; which said stipulation is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebras

OLIVER AMES *et al.*
vs.
THE UNION PACIFIC RAILWAY COMPANY *et al.* } 59,

2301 HENRY L. HIGGINSON *et al.*
vs.
THE CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY *et al.* } 62,

GEORGE SMITH *et al.*
vs.
THE CHICAGO & NORTH WESTERN RAILROAD COMPANY *et al.* } 60,

Stipulation.

It is hereby stipulated and agreed that an order may be enter in each of the above causes substituting Arthur S. Churchill, atto ney general, Joel A. Piper, secretary of state, and Henry C. Russe commissioner of public lands and buildings, in lieu of George Hastings, attorney general, John C. Allen, secretary of state, a A. R. Humphrey, commissioner of public lands and buildings, a that said action stand revived as to the newly elected officers no composing the State board of transportation, and the persons no composing the State board of transportation may petition the cou for leave to sue out an appeal to the Supreme Court of the Unite States.

J. M. WOOLWORTH,
Solicitor for Pl'ffs.

Upon the back of said stipulation appear endorsements in word and figures following, to wit:

2302 No. 59, 60, & 62, Q. U. S. circuit court, district of Nebrask Oliver Ames *et al. vs.* The Union Pacific R'y Co. *et al.*; Georg Smith *et al.*, plaintiff-, *vs.* The Chicago & Northwestern Railway C *et al.*, and Henry L. Higginson *et al.*, plaintiff-, *vs.* The Chicago, Bu lington & Quincy Railroad Co. *et al.* Stipulation. Filed Jul- 1895. Elmer D. Frank, clerk. Jno. L. Webster, attorney for de fendants.

Thereupon, afterwards, at the May term of said court, on the sai sixth day of July, 1895, the following proceedings were had an done in said case, as appears of record on folio 148, Journal " U " o said court, to wit:

2303 OLIVER AMES, OAKES AMES, FRANK M. Ames, William Powell Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, Complainants,

vs.

UNION PACIFIC RAILWAY COMPANY, THE St. Joseph and Grand Island Railroad Company, The Omaha & Republican Valley Railroad Company, The Kansas City & Omaha Railroad Company, Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, Officers of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, Defendants.

59, Q. Order of Reviver and Substitution.

This cause coming on to be heard on the petition of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, officers of the State of Nebraska respectively and composing the State board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants herein, to have said cause of action revived in their name as parties defendant and for leave to file a petition and prosecute an appeal of this cause to the United States Supreme Court, it is—

Ordered, adjudged, and decreed that said petition be, and the same is hereby, granted and the cause of action is revived as
2304 to them in their name, and that they are hereby substituted as parties defendant in lieu of George H. Hastings, attorney general; John C. Allen, secretary of state, and A. R. Humphrey, commissioner of public lands and buildings, and that they have leave to file a petition praying an appeal and to take such other steps as may to them seem necessary in the prosecution thereof.

(Signed) ELMER S. DUNDY, *Judge.*

July 6, 1895.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a notice to codefendants requesting them to join in an appeal was filed in said case; which said notice is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES, OAKES AMES, FRANK M. AMES, WILLIAM POWELL Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, Complainants,

vs.

UNION PACIFIC RAILWAY COMPANY, THE ST. JOSEPH AND GRAND Island Railroad Company, The Omaha & Republican Valley Railroad Company, The Kansas City & Omaha Railroad Company, Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and Henry C. Russell, Commissioner of Public Lands and Buildings, Officers of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, Defendants.

2305 *Notice to Codefendants Requesting them to Join in an Appeal to the United States Supreme Court.*

Now comes Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants, and hereby serve this their notice upon and requests of the codefendants, The Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railroad Company, and The Kansas City & Omaha Railroad Company, that you and each of you join with us in the prosecution of an appeal to the United States Supreme Court from the decree of the circuit court of the United States entered in the above-entitled cause.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL,
JNO. L. WEBSTER,
Their Solicitors.

Service of this notice accepted on behalf of Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley R'y Company, The Kansas
2306 City & Omaha Railroad Company, and all which companies decline to join in the appeal.

July 6, 1895.

UNION PACIFIC R'Y COMPANY,
By W. R. KELLY, *Its Solicitor.*
OMAHA & REPUBLICAN VALLEY RAILWAY COMPANY,
By W. R. KELLY, *Its Solicitor.*
ST. JOSEPH & GRAND ISLAND R. R. CO.,
By M. A. REED, *Its Solicitor.*
KANSAS CITY & OMAHA R. R. CO.,
By M. A. REED, *Its Solicitor.*

Upon the back of said notice appear endorsements in words and figures following, to wit:

No. 59, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* The Union Pacific Railway Co. *et al.* Notice requesting codefendant- to join in appeal. Filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, attorney general; Jno. F. Webster, solicitors.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a petition praying an appeal was filed in said case; which said petition praying an appeal is in the words and figures following, to wit:

2307 In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES, OAKES AMES, FRANK M. AMES, William Powell Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, Complainants, *vs.* UNION PACIFIC RAILWAY COMPANY, THE ST. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railroad Company, The Kansas City & Omaha Railroad Company, Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and Henry C. Russell, Commissioner of Public Lands and Buildings, Officers of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, Defendants.	Petition Praying an Appeal.

Now come Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all officers of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board of transportation, defendant- in the above-entitled cause, and, complaining of the plaintiffs, say—

That on the 23rd day of November, 1894, said plaintiffs recovered a judgment and decree against these defendants herein in said cause and in said court, in which, among other things, it was
2308 decreed that these defendants be enjoined and restrained from entertaining, hearing, or determining any complaint against said defendant railway companies or either of them or their receivers for or on account of any act or thing by either of said companies or their receivers, their officers, agents, servants, or employés done, suffered, or omitted which may be forbidden or commanded by an act of the legislature of the State of Nebraska entitled "An act to regulate railroads, classify freight, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act," approved April 12th, 1893.

And — which said decree these defendants were further enjoined from instituting or prosecuting or from causing to be instituted or prosecuted any action or proceeding, civil or criminal, against either of said railway companies or their receivers for any act or thing done, suffered, or omitted which may be forbidden or com-

anded by the said act, and particularly from reducing its present
tes of charges for transportation of freight to the rates prescribed
said act.

And in which said judgment and decree the attorney general of
e State of Nebraska was further enjoined from bringing or causing
be brought any proceeding by way of injunction, mandamus,
ril action, or indictment against any or either of said railway
mpanies or their receivers for or on account of any action or
ission on their part commanded or forbidden by the said act.

And in which said judgment and decree it was adjudged and
creed that the said act above mentioned is repugnant to the Con-
stitution of the United States, in that the said railway com-
09 panies may not, under its provisions, exact rates for the
transportation of freight which yield to the companies rea-
nable compensation for such services.

And these defendants allege that they were prejudiced by the
rious orders, judgments, and decrees, and that there is error in
e proceedings of the court by which said judgment and decree
as obtained, and that the said judgment and decree is erroneous
matters and things more particularly shown by the assignment
errors filed herewith and by the record in said cause.

And by reason of said errors the said defendants pray that they
ay be allowed to appeal from said judgment and decree of said
urt in said cause to the United States Supreme Court, and that a
nscript of the record and proceedings, duly authenticated, may
sent to said United States Supreme Court, whereby said judg-
ent and decree may be reversed, and whereby these defendants
ay be given such other and further relief as may be just and
oper.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL AND
JNO. L. WEBSTER, *Solicitors.*

JNO. L. WEBSTER, *Of Counsel.*

It is hereby ordered that an appeal be, and is hereby, allowed as prayed; cost bond fixed at $500, to be approved by the clerk.

(Signed) ELMER S. DUNDY, *Judge.*

July 6, 1895.

2310 Upon the back of said petition praying an appeal appear endorsements in words and figures following, to wit:

No. 59, Q. United States circuit court, district of Nebraska. Oliver Ames *et al. vs.* The Union Pacific Railway Company *et al.* Petition praying an appeal. Filed Jul- 6, 1895. Elmer D. Frank, clerk.

Thereupon, afterwards, at the May term of said court, on the said sixth day of July, 1895, the following proceedings were had and done in said case, as appears of record on folio 148, Journal "U," of said court, to wit:

OLIVER AMES *et al.* *vs.* THE UNION PACIFIC RAILWAY COMPANY *et al.*	59, Q.	Order Allowing Appeal.

This cause coming on to be heard on the petition of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all officers of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board of transportation, praying an appeal to the Supreme Court of the United States, it is hereby—

Ordered that the appeal be, and is hereby, allowed to the Supreme Court of the United States, as prayed in said petition, and cost bond fixed at the sum of $500.00, to be approved by the clerk of this court.

2311 Thereupon, afterwards, to wit, on the said sixth day of July, 1895, an assignment of error was filed in said case; which said assignment of error is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES, OAKES AMES, FRANK M. AMES, William Powell Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, Complainants,

vs.

UNION PACIFIC RAILWAY COMPANY, THE ST. Joseph and Grand Island Railroad Company, The Omaha & Republican Valley Railroad Company, The Kansas City & Omaha Railroad Company, Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and Henry C. Russell, Commissioner of Public Lands and Buildings, Officers of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, Defendants.

Assignment of Error.

Come now Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants, and say there is manifest error in the record of the proceed-
2312 ings and decree in the above-entitled cause in this, to wit:

1. Said court erred in that part of the decree wherein it ordered and decreed that said railway companies be perpetually enjoined and restrained from making or publishing a schedule of rates to be charged by them for the transportation of freight on and over their respective roads in this State from one point to another therein whereby such rates shall be reduced to those prescribed by the act of the legislature of the State of Nebraska entitled "An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act," approved April 12th, 1893.

2. That the said court erred in that part of the decree wherein it ordered and decreed that the defendant railway companies be enjoined and restrained from reducing the rates below those now charged by said companies or either of them or their receivers or from in anywise obeying, observing, or conforming to the provis-

ions, commands, injunctions, and prohibitions of said act of the legislature of Nebraska.

3. That the said court erred in that part of its judgment and decree wherein it decreed that the board of transportation of the State of Nebraska, its members and secretaries, be perpetually enjoined and restrained from entertaining, hearing, or determining any complaints made to it against said railway companies for or on account of any act or thing done, suffered, or omitted by said companies, their officers, agents, or servants, which may be forbidden or commanded by said act of the legislature of the State of Nebraska.

4. That said court erred in that part of its judgment
2313 and decree wherein it adjudged and decreed that the board of transportation of the State of Nebraska be perpetually enjoined and restrained from instituting or prosecuting or causing to be instituted or prosecuted any action or proceeding against either of said companies for anything by them done, suffered, or omitted or which may be forbidden or commanded by the said act of the legislature of the State of Nebraska.

5. For that the said court erred in said judgment and decree wherein it ordered and decreed that the board of transportation be perpetually enjoined and restrained from reducing the present rates of charges for transportation of freight by the defendant railway companies to those rates prescribed in said act of the legislature of the State of Nebraska.

6. That the said court erred in its said judgment and decree in that part thereof wherein it adjudged and decreed that the attorney general of the State of Nebraska be in like manner perpetually enjoined and restrained from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action, or indictment against said railway companies or either of them for or on account of any action or omission on their part commanded or forbidden by the said act.

7. That the said court erred in that part of its judgment and decree wherein it is adjudged and decreed that the said act of the legislature of the State of Nebraska is repugnant to the Constitution of the United States.

8. That the court erred in its said judgment and decree in that part thereof wherein it is adjudged and decreed that the said act of the legislature of the State of Nebraska forbade the railway companies from exacting for the transportation of freight from

2314 one point to another within the State charges which would yield to the companies reasonable compensation for such services.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL,
JNO. L. WEBSTER, *Solicitors.*

JNO. L. WEBSTER, *Of Counsel.*

Upon the back of said assignment of error appear endorsements in words and figures following, to wit:

No. 59, Q. United States circuit court, district of Nebraska. Oliver Ames *et al. vs.* The Union Pacific Railway Company *et al.* Assignment of error. Filed Jul- 6, 1895. Elmer D. Frank, clerk.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a citation was duly issued in said case and returned and filed July 6th, 1895, the following of which is the original:

2315 *Citation.*

The United States of America to Oliver Ames, Oakes Ames, Frank M. Ames, William Powell Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated; The Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railway Company, The Kansas City & Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane, and Frederick R. Coudert, receivers of the said Union Pacific Company, Greeting:

You are hereby cited and admonished to be and appear in the United States Supreme Court, at the city of Washington, D. C., thirty days from and after the day this citation bears date, pursuant to an appeal allowed and filed in the clerk's office of the circuit

court of the United States for the district of Nebraska, wherein Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, are appellants and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in said appeal men-
2316 tioned, should not be corrected and why speedy justice should not be done the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 6 day of July, in the year of our Lord eighteen hundred and ninety-five.

Seal United States Circuit Court, District of Nebraska.

ELMER S. DUNDY,
United States District Judge for the District of Nebraska.

Due and legal service of the within citation is hereby accepted at Omaha, Neb., July 8, 1895.

J. M. WOOLWORTH,
Sol. for Appellees.

2317 [Endorsed:] No. 59, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* The Union Pacific Railway Company *et al.* Citation. Filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webster, solicitors.

2318 Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a bond was filed in said case; which said bond is in the words and figures following, to wit:

Know all men by these presents that we, Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, constituting the board of transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of the board of transportation of the State of Nebraska, as principals, and A. S. Churchill and Jos. S. Bartley, H. C. Russell, Joel A. Piper, & Eugene Moore, as sureties, are held and firmly bound unto Oliver Ames, Oakes Ames, Frank M. Ames, William Powell Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated; The Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railway Company, The Kansas City and Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W.

Doane, and Frederick R. Coudert, receivers of the said Union Pacific Railway Company, in the full and just sum of five hundred dollars, to be paid to the said Oliver Ames, Oakes Ames, Frank M. Ames, William Powell Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated; The Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railway Company, The Kansas City and Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery
2319 Anderson, John W. Doane, and Frederick R. Coudert, receivers of the said Union Pacific Railway Company, their heirs, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this — day of ——, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas lately, at the November term, A. D. 1894, of the circuit court of the United States for the district of Nebraska, in a suit depending in said court between Oliver Ames, Oakes Ames, Frank M. Ames, William Powell Mason, E. Pierson Beebe, Charles J. Merrill, Charles F. Choate, suing as well on their own behalf as on behalf of all others similarly situated, complainants, and The Union Pacific Railway Company, The St. Joseph & Grand Island Railroad Company, The Omaha & Republican Valley Railway Company, The Kansas City & Omaha Railway Company, S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, John W. Doane, and Frederick R. Coudert, receivers of the said Union Pacific Railway Company; George H. Hastings, attorney general; John C. Allen, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and A. R. Humphrey, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, respondents, decree was rendered against the said respondents, and said suit was revived in the name of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, constituting said board of transportation of
2320 the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, and an allowance obtained of an appeal from the said court to reverse the said decree in the aforesaid suit, and a citation directed to the said appellees, citing and admonishing them to be and appear in the United States Supreme Court, at the city of Washington, D. C., thirty days from the day said citation bears date:

Now, the condition of the above obligation is such that if the said Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of

public lands and buildings, constituting the board of transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of the board of transportation of the State of Nebraska, shall prosecute said appeal to effect and answer all costs if they fail to make good their plea, then the above obligation to be void; else to remain in full force and virtue.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER, *Secretary of State,*
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer,
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
Constituting the Board of Transportation of the
State of Nebraska,
WILLIAM A DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By JNO. L. WEBSTER &
A. S. CHURCHILL, *Their Solicitors.*
A. S. CHURCHILL.
JOS. S. BARTLEY.
H. C. RUSSELL.
J. A. PIPER.
EUGENE MOORE.

2321 Upon the back of said bond appear endorsements in words and figures following, to wit:

No. 59, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* Union Pacific Railway Co. *et al.* Bond. Within bond approved by me as per order of court and filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, att'y general; Jno. L. Webster, solicitors.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a stipulation was filed in said case; which said stipulation is in words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES *et al.*
vs.
THE UNION PACIFIC RAILWAY COMPANY *et al.*

HENRY L. HIGGINSON *et al.*
vs.
THE CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY *et al.*

2322 GEORGE SMITH *et al.*
vs.
THE CHICAGO & NORTH WESTERN RAILROAD COMPANY *et al.*

Stipulation.

It is hereby stipulated that the clerk of the circuit court of the United States for the district of Nebraska, in making up the record in the above causes on the appeal of the State board of transportation to the Supreme Court of the United States, may transmit one copy of the evidence which shall be used in the United States Supreme Court in each cause, the said testimony having been taken in the circuit court of the United States under stipulation of the parties that the same testimony should be and accordingly was used in each case, and said causes, therefore, having been heard and submitted to the court at one and the same time on said testimony.

J. M. WOOLWORTH,
Sol. for Pl'ff-.
JNO. L. WEBSTER,
Sol. for Appellants.

Upon the back of said stipulation appear endorsements in words and figures following, to wit:

No. 59, 60, 62, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* Union Pacific R'y Co. *et al.*; George Smith
2323 *et al. vs.* C. & N. W. R'd Co. *et al.*; Henry L. Higginson *et al. vs.* C., B. & Q. R'd Co. *et al.* Stipulation. Filed Jul- 6, 1895. Elmer D. Frank, clerk.

2324 Thereupon, afterwards, to wit, on the sixth day of July, 1895, a petition for reviver and substitution by State board of transportation was filed in said case; which said petition for reviver is in words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska

GEORGE SMITH, CHARLES P. GOODRICH, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, Copartners, Doing Business under the Firm Name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser, and Frank L. Beemis, Partners, Doing Business under the Firm Name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, Partners, Doing Business under the Firm Name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the Last Will and Testament of F. M. Weld, Deceased, Complainants,

vs.

THE CHICAGO & NORTH WESTERN RAILROAD Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company; George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson,
2325 Secretaries of said Board, all Citizens of said State of Nebraska, Defendants.

Petition for Revive and Substitution.

Now come Arthur S. Churchill, attorney general; Joel A. Pip secretary of state; Eugene Moore, auditor of public accounts, Jose S. Bartley, State treasurer, and Henry C. Russell, commissioner public lands and buildings, all of whom are officers of the State Nebraska and as such constitute the State Board of Transportati of the State of Nebraska, and William A. Dilworth, J. M. Koun and J. W. Johnson, secretaries of said board, defendants herein, a represent to the court that since the rendition of the decree in t cause and at a general election held on the seventh day of Nove

ber, 1894, Arthur S. Churchill was duly elected attorney general and Joel A. Piper was duly elected secretary of state and Henry C. Russell was duly elected commissioner of public lands and buildings of the State of Nebraska, and that they were duly installed and qualified as such officers respectively for the State of Nebraska and entered upon their duties as such officers on the third day of January, 1895, and as such officers are members of the State board of transportation of the State of Nebraska, in lieu of George H. Hastings, formerly attorney general, and John C. Allen, formerly secretary of state, and A. R. Humphrey, formerly commissioner of public lands and buildings, and therefore petition the court that they may be substituted as defendants in this action in lieu of the said officers last above named, whose terms expired on the third day of January, 1895, and that this action may be revived in their name as officers composing a part of the State board of transportation, defendants herein, and that your petitioners may be permitted to sue out an appeal from this action to the United States Supreme Court.

2326

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER, *Secretary of State,*
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. W. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL &
JNO. L. WEBSTER,
Their Solicitor.

JNO. L. WEBSTER, *Of Counsel.*

Upon the back of said petition for reviver and substitution by State board of transportation appear endorsements in words and figures following, to wit:

No. 60, Q. U. S. circuit court, district of Nebraska. George Smith *et al. vs.* The Chicago and Northwestern R'y Co. *et al.* Petition for reviver and substitution by State board of transportation. Filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webster.

2327 Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a stipulation was filed in said case; which said stipulation is in words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska

OLIVER AMES *et al.*
vs.
THE UNION PACIFIC RAILWAY COMPANY *et al.* } 59, Q

HENRY L. HIGGINSON *et al.*
vs.
THE CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY *et al.* } 62, Q

GEORGE SMITH *et al.*
vs.
THE CHICAGO & NORTH WESTERN RAILROAD COMPANY *et al.* } 60, Q

Stipulation.

It is hereby stipulated and agreed that an order may be entered in each of the above causes substituting Arthur S. Churchill, attorney general; Joel Piper, secretary of state, and Henry C. Russell commissioner of public lands and buildings, in lieu of George H Hastings, attorney general; John C. Allen, secretary of state, and A R. Humphrey, commissioner of public lands and buildings, and tha said action stand revived as to the newly elected officers now composing the State board of transportation, and the persons now composing the State board of transportation may petition the court fo leave to sue out an appeal to the Supreme Court of the United States.

2328 J. M. WOOLWORTH,
Sol. for Pl'ffs.

Upon the back of said stipulation appear endorsements in words and figures following, to wit:

No. 59, 60, & 62, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* The Union Pacific R'y Co. *et al.*, George Smith *et al. vs.* The Chicago & North Western Railway Co. *et al.*, and Henry L. Higginson *et al.*, plaintiff-, *vs.* The Chicago, Burlington & Quincy Railroad Co. *et al.* Stipulation. Filed Jul- 6, 1895. Elmer D Frank, clerk. Jno. L. Webster, attorney for defendants.

Thereupon, afterwards, at the May term of said court, on the said sixth day of July, 1895, the following proceedings were had and done in said case, as appears of record on folio 149, Journal "U" of said court, to wit:

2329 GEORGE SMITH, CHARLES P. GOODRICH, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, Copartners, Doing Business under the Firm Name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser, and Frank L. Beemis, Partners, Doing Business under the Firm Name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, Partners, Doing Business under the Firm Name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the Last Will and Testament of F. M. Weld, Deceased, Complainants,

vs.

THE CHICAGO & NORTH WESTERN RAILROAD Company; Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago, St. Paul, Minneapolis & Omaha Railway Company; Geo. H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska; William A. Dillworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, all Citizens of said State of Nebraska, Defendants.

No. 60, Q. Order of Reviver and Substitution.

This case coming on to be heard on the petition of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, officers of the State of Nebraska respectively and
2330 composing the State board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants herein, to have said cause of action revived in their name as parties defendant, and for leave to file a petition and to prosecute an appeal of this cause to the United States Supreme Court, it is—

Ordered, adjudged, and decreed that said petition be, and the

same is hereby, granted and the cause of action is revived as to them in their name, and that they are hereby substituted as parties defendant in lieu of George H. Hastings, attorney general; John C. Allen, secretary of state, and A. R. Humphrey, commissioner of public lands and buildings, and that they have leave to file a petition praying an appeal, and to take such other steps as may to them seem necessary in the prosecution thereof.

(Signed) ELMER S. DUNDY, *Judge.*

July 6, 1895.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a notice requesting codefendant to join in appeal was filed in said case; which said notice is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, Copartners, Doing Business under the Firm Name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles F. Eddy, Arthur Sweetser, and Frank
2331 L. Beemis, Partners, Doing Business under the Firm Name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, Partners, Doing Business under the Firm Name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the Last Will and Testament of F. M. Weld, Deceased, Complainants,

vs.

THE CHICAGO & NORTH WESTERN RAILROAD COMPANY, FREMONT, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company; Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; Henry C. Russell, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, all Citizens of said State of Nebraska, Defendants.

Notice to Codefendants Requesting them to Join in an Appeal to the United States Supreme Court.

Now come Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and con-

stituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants, and hereby serve this their notice upon and request of the co-defendants, The Chicago & North Western Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company,
2332 that you and each of you join with us in the prosecution of an appeal to the United States Supreme Coort from the decree of the circuit court of the United States entered in the above-entitled cause.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL,
JNO. L. WEBSTER, *Solicitors.*

Service of this notice accepted in behalf of the Chicago and North Western Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and the Chicago, St. Paul, Minneapolis & Omaha Railway Company, which defendant companies decline to join in the appeal to the Supreme Court of United States.
July 6, 1895.

LLOYD W. BOWERS,
General Counsel of C. & N. W. R'y Co. & F., E. & M. V. R. R. Co.
THOMAS WILSON,
Gen. Counsel C., St. P., M. & O. R'y Co.

Upon the back of said notice appear endorsements in words and figures following, to wit:
2333 No. 60, Q. U. S. circuit court, district of Nebraska. George Smith *et al. vs.* The Chicago and North Western Railroad Company *et al.* Notice requesting codef't to join in appeal. Filed Jul-6, 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webster, solicitors.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a petition praying an appeal was filed in said case; which said petition praying an appeal is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

GEORGE SMITH, CHARLES P. GOODRICH, Lawrence Minot, Thomas P. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, Copartners, Doing Business under the Firm Name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles F. Eddy, Arthur Sweetser, and Frank L. Beemis, Partners, Doing Business under the Firm Name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, Partners, Doing Business under the Firm Name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the Last Will and Testament of F. M. Weld, Deceased, Complainants,

2334

vs.

THE CHICAGO & NORTH WESTERN RAILROAD Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company; Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; Henry C. Russell, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, all Citizens of said State of Nebraska, Defendants.

Petition Praying an Appeal.

Now come Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all officers of the State of Nebraska and constituting its board of transportation, and William

A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board of transportation, defendant- in the above-entitled cause, and, complaining of the plaintiffs, say—

That on the 23rd day of November, 1894, said plaintiffs recovered a judgment and decree against these defendants herein in said cause and in said court, in which, among other things, it was decreed that these defendants be enjoined and restrained from entertaining, hearing, or determining any complaint against said defendant
2335 railway companies or either of them or their receivers for or on account of any act or thing by either of said companies or their receivers, their officers, agents, servants, or employés, done, suffered, or omitted, which may be forbidden or commanded by an act of the legislature of the State of Nebraska entitled "An act to regulate railroads, classify freights, to fix reasonable maximum rates to be charged for the transport tion of freight upon each of the railroads in the State of Nebr :a, and to provide penalties for the violation of this act," appro l April 12th, 1893.

And — which said decre iese defendants were further enjoined from instituting or prosecuting or from causing to be instituted or prosecuted any action or proceeding, civil or criminal, against either of said railway companies or their receivers for any act or thing done, suffered, or omitted which may be forbidden or commanded by the said act, and particularly from reducing its present rates of charges for transportation of freight to the rates prescribed in said act.

And in which said judgment and decree the attorney general of the State of Nebraska was further enjoined from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action, or indictment against any or either of said railway companies or their receivers for or on account of any action or omission on their part commanded or forbidden by the said act.

And in which said judgment and decree it was adjudged and decreed that the said act above mentioned is repugnant to the Constitution of the United States, in that the said railway companies may not, under its provisions, exact rates for the transportation of freight which yield to the companies reasonable compensation for such service.

2336 And these defendants allege that they were prejudiced by the various orders, judgments, and decrees, and that there is error in the proceedings of the court by which said judgment and decree was obtained, and that the said judgment and decree is erroneous in matters and things more particularly shown by the assignment of errors filed herewith and by the record in said cause.

And by reason of said errors the said defendants pray that they may be allowed to appeal from said judgment and decree of said court in said cause to the United States Supreme Court, and that a transcript of the record and proceedings, duly authenticated, may be sent to said United States Supreme Court, whereby said judgment

and decree may be reversed and whereby these defendants may be given such other and further relief as may be just and proper.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska, and Constituting Its Board of Transportation, and
WILLIAM A. DILWORTH.
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL,
JNO. L. WEBSTER, *Solicitors.*

JNO. L. WEBSTER, *Of Counsel.*

On reading foregoing petition it is ordered that an appeal be and is hereby allowed as prayed; cost bond fixed at $500, to be approved by the clerk.

(Signed) ELMER S. DUNDY, *Judge.*

July 6, 1895.

2337 Upon the back of said petition praying an appeal appear endorsements in words and figures following, to wit:

No. 60, Q. United States circuit court, district of Nebraska. George Smith *et al. vs.* The Chicago & Northwestern Railway Company *et al.* Petition praying an appeal. Filed Jul- 6, 1895. Elmer D. Frank, clerk.

Thereupon, afterwards, at the May term of said court, on the said sixth day of July, 1895, the following proceedings were had and done in said case, as appears of record on folio 149, Journal "U" of said court, to wit:

GEORGE SMITH *et al.* *vs.* THE CHICAGO & NORTHWESTERN RAILROAD COMPANY *et al.*	60, Q. Order Allowing Appeal.

This cause coming on to be heard on the petition of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley,
2338 State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all officers of the State of Nebraska and

constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board of transportation, praying an appeal to the Supreme Court of the United States, it is hereby—

Ordered that the appeal be, and is hereby, allowed to the Supreme Court of the United States as prayed in said petition, and cost bond fixed at the sum of $500.00, to be approved by the clerk of this court.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, an assignment of error was filed in said case; which assignment of error is in words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE Minot, Thomas P. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, Copartners, Doing Business under the Firm Name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles F. Eddy, Arthur Sweetser, and Frank L. Beemis, Partners, Doing Business under the Firm Name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph W. Goodale, and Winthrop M. Burr, Partners, Doing Business under the Firm Name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, Executors of the Last Will and Testament of F. M. Weld, Deceased, Complainants,

2339 *vs.*

THE CHICAGO & NORTH WESTERN RAILROAD Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company; Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; Henry C. Russell, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of said Board, all Citizens of said State of Nebraska, Defendants.

Assignment of Error.

Come now Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph

S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants, and say there is manifest error in the record of the proceedings and decree in the above-entitled cause, in this, to wit:

1. Said court erred in that part of the decree wherein it ordered and decreed that said railway companies be perpetually enjoined and restrained from making or publishing a schedule of rates to be charged by them for the transportation of freight on or over their respective roads in this State from one point to another therein, whereby such rates shall be reduced to those prescribed by the act of the legislature of the State of Nebraska entitled "An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act," approved April 12th, 1893.

2340 2. That the said court erred in that part of the decree wherein it ordered and decreed that the defendant railway companies be enjoined and restrained from reducing the rates below those now charged by said companies or either of them or their receivers or from in anywise obeying, observing, or conforming to the provisions, commands, injunctions, and prohibitions of said act of the legislature of Nebraska.

3. That the said court erred in that part of its judgment and decree wherein it decreed that the board of transportation of the State of Nebraska, its members and secretaries, be perpetually enjoined and restrained from entertaining, hearing, or determining any complaints made to it against said railway companies for or on account of any act or thing done, suffered, or omitted by said companies, their officers, agents, or servants, which may be forbidden or commanded by said act of the legislature of the State of Nebraska.

4. That said court erred in that part of its judgment and decree wherein it adjudged and decreed that the board of transportation of the State of Nebraska be perpetually enjoined and restrained from instituting or prosecuting or causing to be instituted or prosecuted any action or proceeding against either of said companies for anything by them done, suffered, or omitted or which may be forbidden or commanded by the said act of the legislature of the State of Nebraska.

5. For that the said court erred in said judgment and decree wherein it ordered and decreed that the board of transportation be perpetually enjoined and restrained from reducing the present rates of charges for transportation of freight by the defendant railway companies to those rates prescribed in said act of the legislature of the State of Nebraska.

2341 6. That the said court erred in its said judgment and decree in that part thereof wherein it adjudged and decreed that the attorney general of the State of Nebraska be in like man-

ner perpetually enjoined and restrained from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action, or indictment against said railway companies or either of them for or on account of any action or omission on their part commanded or forbidden by the said act.

7. That the said court erred in that part of its judgment and decree wherein it is adjudged and decreed that the said act of the legislature of the State of Nebraska is repugnant to the Constitution of the United States.

8. That the court erred in its said judgment and decree in that part thereof wherein it is adjudged and decreed that the said act of the legislature of the State of Nebraska forbade the railway companies from exacting for the transportation of freight from one point to another within the State charges which would yield to the companies reasonable compensation for such services.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting
Its Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL,
JNO. L. WEBSTER, *Solicitors.*

JNO. L. WEBSTER, *Of Counsel.*

2342 Upon the back of said assignment of error appear endorsements in words and figures following, to wit:

No. 60, Q. United States circuit court, district of Nebraska. George Smith *et al. vs.* The Chicago & Northwestern R'd Co. *et al.* Assignment of error. Filed Jul- 6, 1895. Elmer D. Frank, clerk.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a citation was duly issued in said case and returned and filed July 6th, 1895, the following of which is the original:

2343 *Citation.*

The United States of America to George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, copartners, doing business under the firm name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser, and Frank L. Beemis, partners, doing business under the firm name of Brewster, Cobb and Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, partners, doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased; The Chicago & North Western Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railroad Company, Greeting:

You are hereby cited and admonished to be and appear in the United States Supreme Court, at the city of Washington, D. C., thirty days from and after the day this citation bears date, pursuant to an appeal allowed and filed in the clerk's office of the circuit court of the United States for the district of Nebraska, wherein Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, are appellants and you are appellees, to show cause, if any there be, why the decree
2344 rendered against the said appellants, as in said appeal mentioned, should not be corrected and why speedy justice should not be done the parties in that behalf.

Seal United States Circuit Court, District of Nebraska.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 6 day of July, in the year of our Lord eighteen hundred and ninety-five

ELMER S. DUNDY,
United States District Judge for the District of Nebraska.

Due and legal service of the within citation is hereby accepted, at Omaha, Nebraska, this 8 day of July, 1895.

J. M. WOOLWORTH.

2345 [Endorsed:] No. 60, Q. U. S. circuit court, district of Nebraska. George Smith *et al. vs.* The Chicago and Northwestern Railroad Company *et al.* Citation. Filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webster, solicitors.

2346 Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a bond was filed in said case; which said bond is in the words and figures following, to wit:

Know all men by these presents that we, Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, constituting the board of transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of the board of transportation of the State of Nebraska, as principals, and A. S. Churchill and Jos. S. Bartley, H. C. Russell, Joel A. Piper, & Eugene Moore, as sureties, are held and firmly bound unto George Smith, Charles P. Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, copartners, doing business under the firm name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser, and Frank L. Bemis, partners, doing business under the firm name of Brewster, Cobb and Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, partners, doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased; The Chicago & North Western Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company, in the full and just sum of five hundred dollars, to be paid to the said George Smith, Charles P.
2347 Goodrich, Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke, Charles P. Gardner, and Henry Lee, Henry L. Higginson, George C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane, copartners, doing business under the firm name of Lee, Higginson & Company; Henry A. Cobb, Arthur Estabrook, Charles H. Watson, Charles E. Eddy, Arthur Sweetser, and Frank L. Bemis, partners, doing business under the firm name of Brewster, Cobb & Estabrook; John Parkinson, A. Tucker Burr, Joseph M. Goodale, and Winthrop M. Burr, partners, doing business under the firm name of Parkinson & Burr, and Benjamin R. Weld and Francis M. Weld, executors of the last will and testament of F. M. Weld, deceased; The Chicago & Northwestern Railroad Company, Fremont, Elkhorn & Missouri Valley Railroad Company, and The Chicago, St. Paul, Minneapolis & Omaha Railway Company, their heirs, executors, administrators, or assigns; to the payment of which sum, well and truly to be made, we bind

ourselves, our heirs, executors, and administrators, jointly and sev
erally, by these presents.

Sealed with our seals and dated this 6th day of July, in the yea
of our Lord one thousand eight hundred and ninety-five.

Whereas lately, at the November term, A. D. 1894, of the circui
court of the United States for the district of Nebraska, in a suit de
pending in said court between George Smith, Charles P. Goodrich
Lawrence Minot, Thomas J. Cushing, T. Lathrop Thorndyke
Charles P. Gardner, and Henry Lee, Henry L. Higginson, Georg
C. Lee, Charles Fairchild, James Jackson, and Gardner M. Lane
copartners, doing business under the firm name of Lee, Higgi
son & Company; Henry A. Cobb, Arthur Estabrook, Charles H
Watson, Charles E. Eddy, Arthur Sweetser, and Frank L. Bemi
partners, doing business under the firm name of Brewster, Cobb
Estabrook; John Parkinson, A. Tucker Burr, Joseph M
2348 Goodale, and Winthrop M. Burr, partners, doing busine
under the firm name of Parkinson & Burr, and Benjamin I
Weld and Francis M. Weld, executors of the last will and testamen
of F. M. Weld, deceased, complainants, *versus* The Chicago
North Western Railroad Company, Fremont, Elkhorn & Missou
Valley Railroad Company, and The Chicago, St. Paul, Minneapol
& Omaha Railway Company; Geo. H. Hastings, attorney genera
John C. Allen, secretary of state; Eugene Moore, auditor of publ
accounts; Joseph S. Bartley, State treasurer; A. R. Humphre
commissioner of public lands and buildings, constituting the boa
of transportation of the State of Nebraska; William A. Dilwort
J. M. Kountz, and J. W. Johnson, secretaries of said board, a
citizens of said State of Nebraska, respondents, decree was render
against the said respondents, and said suit was revived in the nam
of Arthur S. Churchill, attorney general; Joel A. Piper, secreta
of state; Eugene Moore, auditor of public accounts; Joseph
Bartley, State treasurer, and Henry C. Russell, commissioner
public lands and buildings, constituting said board of transport
tion of the State of Nebraska; William A. Dilworth, J. M. Koun
and J. W. Johnson, secretaries of said board, and an allowan
obtained of an appeal from the said court to reverse the said decr
in the aforesaid suit, and a citation directed to the said appelle
citing and admonishing them to be and appear in the Unit
States Supreme Court, at the city of Washington, D. C., thirty da
from the — said citation bears date:

Now, the condition of the above obligation is such that if the sa
Arthur S. Churchill, attorney general; Joel A. Piper, secretary
state; Eugene Moore, auditor of public accounts; Joseph S. Bartl
State treasurer, and Henry C. Russell, commissioner of public lan
and buildings, constituting the board of transportation of t
2349 State of Nebraska, and William A. Dilworth, J. M. Koun
and J. W. Johnson, secretaries of the board of transportati
of the State of Nebraska, shall prosecute said appeal to effect a

answer all costs if they fail to make good their plea, then the above obligation to be void; else to remain in full force and virtue.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer,
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
Constituting the Board of Transportation of the
State of Nebraska.
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By JNO. L. WEBSTER,
Their Solicitor.

A. S. CHURCHILL.
JOS. S. BARTLEY.
H. C. RUSSELL.
J. A. PIPER.
EUGENE MOORE.

Upon the back of said bond appear endorsements in words and figures following, to wit:

No. 60, Q. U. S. circuit court, district of Nebraska. George Smith *et al. vs.* The Chicago & Northwestern Railroad Co. 2350 *et al.* Bond. Within bond approved by me as per order of court and filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, att'y general. Jno. L. Webster, solicitor.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a stipulation was filed in said case; which said stipulation is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES *et al.*
vs.
THE UNION PACIFIC RAILWAY COMPANY *et al.*

HENRY L. HIGGINSON *et al.*
vs.
THE CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY *et al.*

GEORGE SMITH *et al.*
vs.
THE CHICAGO & NORTH WESTERN RAILROAD COMPANY *et al.*

Stipulation.

It is hereby stipulated that the clerk of the circuit court of the United States for the district of Nebraska, in making up the
2351 record in the above causes on the appeal of the State board of transportation to the Supreme Court of the United States, may transmit one copy of the evidence, which shall be used in the United States Supreme Court in each cause, the said testimony having been taken in the circuit court of the United States under stipulation of the parties that the same testimony should be, and accordingly was, used in each case, and said causes therefore having been heard and submitted to the court at one and the same time on said testimony.

J. M. WOOLWORTH,
Sol. for Pl'ff.
JNO. L. WEBSTER,
Sol. for Appellants.

Upon the back of said stipulation appear endorsements in words and figures following, to wit:

No. 59, 60, 62, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* Union Pacific R'y Co. *et al.*, George Smith *et al. vs.* C. & N. W. R'd Co. *et al.*, Henry L. Higginson *et al. vs.* C., B. & Q. R'd Co. *et al.* Filed Jul- 6, 1895. Elmer D. Frank, clerk. Stipulation.

2352 Thereupon, afterwards, to wit, on the sixth day of July, 1895, a petition for substitution and reviver by the State board of transportation was filed in said case; which said petition for substitution and reviver is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

HENRY L. HIGGINSON, ROBERT H. GARDNER, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, Complainants, *vs.* THE CHICAGO, BURLINGTON & QUINCY Railroad Company; George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer; A. R. Humphrey, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Defendants.	Petition for Reviver and Substitution.

Now come Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of whom are officers of the State of Nebraska, and as such constitute the State board of transportation of the State of Nebraska, and William A. Dilworth, J. N. Kountz, and J. W. Johnson, secretaries of said board, defendants herein, and represent to the court that since the rendition of the decree in this cause and at a general election held on the seventh day of November, 1894, Arthur S. Churchill was duly elected at-
2353 torney general, and Joel A. Piper was duly elected secretary of state, and Henry C. Russell was duly elected commissioner of public lands and buildings of the State of Nebraska, and that they were duly installed and qualified as such officers respectively for the State of Nebraska and entered upon their duties as such officers on the third day of January, 1895, and as such officers are members of the State board of transportation of the State of Nebraska in lieu of George H. Hastings, formerly attorney general, and John C. Allen, formerly secretary of state, and A. R. Humphrey, formerly commissioner of public lands and buildings, and therefore petition the court that they may be substituted as defendants in this action in lieu of the said officers last above named, whose terms expire on the third day of January, 1895, and that this action may be revived in their

name as officers composing a part of the State board of transportation, defendants herein, and that your petitioners may be permitted to sue out an appeal from this action to the United States Supreme Court.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL,
JNO. L. WEBSTER,
Their Solicitors.

JNO. L. WEBSTER, *Of Counsel.*

2354 Upon the back of said petition for substitution and reviver by the State board of transportation appear endorsements in words and figures following, to wit:

No. 62, Q. U. S. circuit court, district of Nebraska. Henry L. Higginson *et al. vs.* The Chicago, Burlington & Quincy R'y Co. *et al.* Petition for substitution and reviver by the State board of transportation. Filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webster.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a stipulation was filed in said case; which said stipulation is in words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES *et al.*
vs.
THE UNION PACIFIC RAILWAY COMPANY *et al.* } 59, Q.

HENRY L. HIGGINSON *et al.*
vs.
THE CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY *et al.* } 62, Q.

2355 GEORGE SMITH *et al.*
vs.
THE CHICAGO & NORTH WESTERN RAILROAD COMPANY *et al.* } 60, Q.

Stipulation.

It is hereby stipulated and agreed that an order may be entered in each of the above causes substituting Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state, and Henry C. Russell, commissioner of public lands and buildings, in lieu of George H. Hastings, attorney general; John C. Allen, secretary of state, and A. R. Humphrey, commissioner of public lands and buildings, and that said action stand revived as to the newly elected officers now composing the State board of transportation, and the persons now composing the State board of transportation may petition the court for leave to sue out an appeal to the Supreme Court of the United States.

J. M. WOOLWORTH,
Sol. for Pl'ffs.

Upon the back of said stipulation appear endorsements in words and figures following, to wit:

No. 59, 60, & 62, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* The Union Pacific R'y Co. *et al.*; George Smith *et al.*, plaintiff-, *vs.* The Chicago & Northwestern Rail-
2356 way Co. *et al.*, and Henry L. Higginson *et al.*, plaintiff-, *vs.* The Chicago, Burlington & Quincy Railroad Company *et al.* Stipulation. Filed Jul- 6, 1895. Elmer D. Frank, clerk. Jno. L. Webster, attorney for defendants.

Thereupon, afterwards, at the May term of said court, on the said sixth day of July, 1895, the following proceedings were had and done in said case, as appears of record on folio 150, Journal "U" of said court, to wit:

HENRY L. HIGGINSON, ROBERT H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, Complainants,

vs.

THE CHICAGO, BURLINGTON & QUINCY Railroad Company; George H. Hastings, Attorney General; John C. Allen, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and A. R. Humphrey, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Defendants.

62, Q. Order of Reviver and Substitution.

2357 This case coming on to be heard on the petition of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, officers of the State of Nebraska respectively and composing the State board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants herein, to have said cause of action revived in their names as parties defendant and for leave to file a petition and to prosecute an appeal of this action to the United States Supreme Court, it is—

Ordered, adjudged, and decreed that said petition be, and the same is hereby, granted, and the cause of this action is revived as to them in their names, and that they are hereby substituted as parties defendant in lieu of George H. Hastings, attorney general; John C. Allen, secretary of state, and A. R. Humphrey, commissioner of public lands and buildings, and that they have leave to file a petition praying an appeal and to take such other steps as may to them seem necessary in the prosecution thereof.

(Signed) ELMER S. DUNDY, *Judge.*

July 6, 1895.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a notice to codefendants to join in appeal was filed in said case; which said notice is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

2358 HENRY L. HIGGINSON, ROBERT M. GARDNER, WM. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, Complainants,

vs.

THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY; Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and Henry C. Russell, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Defendants.

Notice to Codefendants, Requesting Them to Join in an Appeal to the United States Supreme Court.

Now come Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants, and hereby serve this their notice upon and request of the codefendants, The Chicago, Burlington & Quincy Railroad Company, to join with us in the prosecution of an appeal to the United States Supreme Court from the decree of the circuit court of the United States entered in the above-entitled cause.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
2359 JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL,
JNO. L. WEBSTER,
Their Solicitors.

Service of this notice accepted in behalf of Chicago, Burlington & Quincy Railway Company, and which company declines to join in the appeal to the Supreme Court of the United States.

CHAS. J. GREEN,
Sol. for C., B. & Q. R. R. Co.

July 6, 1895.

Upon the back of said notice appear endorsements in words and figures following, to wit:

No. 62, Q. U. S. circuit court, district of Nebraska. Henry L. Higginson *et al. vs.* C., B. & Q. R. R. Co. *et al.* Notice to codefendants to join in appeal. Filed Jul- 6, 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webster.

2360 Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a petition praying an appeal was filed in said case; which said petition praying an appeal is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

HENRY L. HIGGINSON, ROBERT M. GARDNER, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, Complainants,

vs.

THE CHICAGO, BURLINGTON & QUINCY RAILROAD Company; Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and Henry C. Russell, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Defendants.

Petition Praying an Appeal.

Now come Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all officers of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board of transportation, defendant- in the above-entitled cause, and, complaining of the plaintiffs, say—

That on the 23rd day of November, 1894, said plaintiffs recovered a judgment and decree against these defendants herein in
2361 said cause and in said court, in which, among other things, it was decreed that these defendants be enjoined and restrained from entertaining, hearing, or determining any complaint against said defendant railway companies or either of them or their receivers for or on account of any act or thing by either of said companies or their receivers, their officers, agents, servants, or employés done, suffered, or omitted which may may be forbidden or commanded by an act of the legislature of the State of Nebraska entitled "An act to regulate railroads, classify freight, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act," approved April 12th, 1893.

And — which said decree these defendants were further enjoined from instituting or prosecuting or from causing to be instituted or prosecuted any action or proceeding, civil or criminal, against either of said railway companies or their receivers for any act or thing done, suffered, or omitted which may be forbidden or commanded by this act, and particularly from reducing its present rates of charges for transportation of freight to the rates prescribed in said act, and in which said judgment and decree the attorney general of the State of Nebraska was further enjoined from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action, or indictment against any or either of said railway companies or their receivers for or on account of any action or omission on their part commanded or forbidden by the said act.

And in which said judgment and decree it was adjudged and decreed that the said act above mentioned is repugnant to the Constitution of the United States, in that the said railway companies may not, under its provisions, exact rates for the transporta-
2362 tion of freight which yield to the companies reasonable compensation for such service.

And these defendants allege that they were prejudiced by the various orders, judgments, and decrees, and that there is error in the proceedings of the court by which said judgment and decree was obtained, and that the said judgment and decree is erroneous in matters and things more particularly shown by the assignment of errors filed herewith and by the record in said cause.

And by reason of said errors the said defendants pray that they may be allowed to appeal from said judgment and decree of said court in said cause to the United States Supreme Court, and that a transcript of the record and proceedings, duly authenticated, may be sent to said United States Supreme Court, whereby said judgment and decree may be reversed and whereby these defendants

may be given such other and further relief as may be just and proper.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGEN[illegible] MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL AND
JNO. L. WEBSTER,
Their Solicitors.

JNO. L. WEBSTER, *Of Counsel.*

It is hereby ordered that an appeal be, and is hereby, allowed as prayed; cost bond fixed at $500, to be approved by the clerk.
July 6, 1895.
(Signed) ELMER S. DUNDY, *Judge.*

2363 Upon the back of said petition praying an appeal appear endorsements in words and figures following, to wit:
No. 62, Q. United States circuit court, district of Nebraska. Henry L. Higginson *et al. vs.* The Chicago, Burlington & Quincy Railroad Company *et al.* Petition praying an appeal. Filed Jul-6, 1895. Elmer D. Frank, clerk.

Thereupon, afterwards, at the May term of said court, on the said sixth day of July, 1895, the following proceedings were had and done in said case, as appears of record on folio 150, Journal "U" of said court, to wit:

HENRY L. HIGGINSON *et al.* *vs.* THE CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY *et al.*	62, Q.	Order Allowing Appeal.

This cause coming on to be heard on the petition of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley,

State treasurer, and Henry C. Russell, commissioner of pub-
2364 lic lands and buildings, all officers of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board of transportation, praying an appeal to the Supreme Court of the United States, it is hereby—

Ordered that the appeal be, and is hereby, allowed to the Supreme Court of the United States, as prayed in said petition, and costs bond fixed at the sum of $500.00, to be approved by the clerk of this court.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, an assignment of error was filed in said case; which said assignment of error is in the words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

HENRY L. HIGGINSON, ROBERT M. GARDNER, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, Complainants,

vs.

THE CHICAGO, BURLINGTON & QUINCY Railroad Company; Arthur S. Churchill, Attorney General; Joel A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and Henry C. Russell, Commissioner of Public Lands and Buildings, Constituting the Board of Transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, Secretaries of the Board of Transportation of the State of Nebraska, Defendants.

} Assignment of Error.

Come now Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts;
2365 Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, all of the State of Nebraska and constituting its board of transportation, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, defendants, and say there is manifest error in the record of the proceedings and decree in the above-entitled cause, in this, to wit:

1. Said court erred in that part of the decree wherein it ordered and decreed that said railway companies be perpetually enjoined

and restrained from making or publishing a schedule of rates to be charged by them for the transportation of freight on and over their respective roads in this State from one point to another therein, whereby such rates shall be reduced to those prescribed by the act of the legislature of the State of Nebraska entitled "An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freight upon each of the railroads in the State of Nebraska, and to provide penalties for the violation of this act," approved April 12th, 1893.

2. That the said court erred in that part of the decree wherein it ordered and decreed that the defendant railway companies be enjoined and restrained from reducing the rates below those now charged by said companies or either of them or their receivers, or from in anywise obeying, observing, or conforming to the provisions, commands, injunctions, and prohibitions of said act of the legislature of Nebraska.

3. That the said court erred in that part of its judgment and decree wherein it decreed that the board of transportation of the State of Nebraska, its members and secretaries, be perpetually enjoined and restrained from entertaining, hearing, or deter-
2366 mining any complaints made to it against said railway companies for or on account of any act or thing done, suffered, or omitted by said companies, their officers, agents, or servants, which may be forbidden or commanded by said act of the legislature of the State of Nebraska.

4. That said court erred in that part of its judgment and decree wherein it adjudged and decreed that the board of transportation of the State of Nebraska be perpetually enjoined and restrained from instituting or prosecuting or causing to be instituted or prosecuted any action or proceeding against either of said companies for anything by them done, suffered or omitted, or which may be forbidden or commanded by the said act of the legislature of the State of Nebraska.

5. For that the said court erred in said judgment and decree wherein it ordered and decreed that the board of transportation be perpetually enjoined and restrained from reducing the present rates of charges for transportation of freight by the defendant railway companies to those rates prescribed in said act of the legislature of the State of Nebraska.

6. That the said court erred in its said judgment and decree in that part thereof wherein it adjudged and decreed that the attorney general of the State of Nebraska be in like manner perpetually enjoined and restrained from bringing or causing to be brought any proceeding by way of injunction, mandamus, civil action, or indictment against said railway companies or either of them for or on account of any action or omission on their part commanded or forbidden by the said act.

7. That the said court erred in that part of its judgment and decree wherein it is adjudged and decreed that the said act of the

legislature of the State of Nebraska is repugnant to the Constitution of the United States.

2367 8. That the court erred in its said judgment and decree in that part thereof wherein it is adjudged and decreed that the said act of the legislature of the State of Nebraska forbade the railway companies from exacting for the transportation of freight from one point to another within the State charges which would yield to the companies reasonable compensation for such services.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts,
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
All of the State of Nebraska and Constituting Its
Board of Transportation, and
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By A. S. CHURCHILL AND
JNO. L. WEBSTER, *Solicitors.*

JNO. L. WEBSTER, *Of Counsel.*

Upon the back of said assignment of error appear endorsements in words and figures following, to wit:

No. 62, Q. United States circuit court, district of Nebraska. Henry L. Higginson *et al. vs.* The Chicago, Burlington & Quincy Railroad Company *et al.* Assignment of error. Filed Jul- 6, 1895. Elmer D. Frank, clerk.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a citation was duly issued in said case and returned and filed July 6th, 1895, the following of which is the original:

2368 *Citation.*

The United States of America to Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, and The Chicago, Burlington & Quincy Railroad Company, Greeting:

You are hereby cited and admonished to be and appear in the United States Supreme Court, at the city of Washington, D. C., thirty

days from and after the day this citation bears date, pursuant to a appeal allowed and filed in the clerk's office of the circuit court the United States for the district of Nebraska, wherein Arthur Churchill, attorney general; Joel A. Piper, secretary of state; E gene Moore, auditor of public accounts; Joseph S. Bartley, Sta treasurer, and Henry C. Russell, commissioner of public lands a buildings, all of the State of Nebraska and constituting its board transportation, and William A. Dilworth, J. M. Kountz, and J. Johnson, secretaries of said board, are appellants and you are a pellees, to show cause, if any there be, why the decree render against the said appellants, as in said appeal mentioned, should n be corrected and why speedy justice should not be done to the pa ties in that behalf.

Seal United States Circuit Court, District of Nebraska.

Witness the Honorable Melville W Fuller, Chief Justice of the Supren Court of the United States, this 6 day July, in the year of our Lord eighte hundred and ninety-five.

ELMER S. DUNDY,
United States District Judge for the District of Nebraska.

Due & legal service of the within citation is hereby accepted, Ju 8, 1895, at Omaha, Neb.

J. M. WOOLWORTH,
Sol. for Appellees.

2369 [Endorsed:] No. 62, Q. U. S. circuit court, district of N braska. George H. Gardner *et al. vs.* The Chicago, Burlin ton and Quincy Railroad Company *et al.* Citation. Filed Jul- 1895. Elmer D. Frank, clerk. A. S. Churchill, Jno. L. Webste solicitors.

2370 Thereupon, afterwards, to wit, on the said sixth day July, 1895, a bond was filed in said case; which said bond in the words and figures following, to wit:

Know all men by these presents that we, Arthur S. Churchi attorney general; Joel A. Piper, secretary of state; Eugene Moor auditor of public accounts; Joseph S. Bartley, State treasurer, a Henry C. Russell, commissioner of public lands and buildings, co stituting the board of transportation of the State of Nebraska, a William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretari of the board of transportation of the State of Nebraska, as principal and A. S. Churchill and Jos. S. Bartley, H. C. Russell, Joel A. Pipe & Eugene Moore, as sureties, are held and firmly bound unto Heu L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardne W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powe

Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, and the Chicago, Burlington & Quincy Railroad Company in the full and just sum of five hundred dollars, to be paid to the said Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E. Peabody, and Henry Stocton, and the Chicago, Burlington & Quincy Railroad Company, their heirs, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 9th day of July, in the year of our Lord one thousand eight hundred and ninety-five.

Whereas lately, at the November term, A. D. 1894, of the circuit court of the United States for the district of Nebraska, in a
2371 suit depending in said court between Henry L. Higginson, Robert H. Gardner, Wm. C. Wells, Geo. A. Gardner, W. S. Dexter, Charles A. Cutting, F. Gordon Dexter, W. Powell Mason, E. Pierson Beebe, S. E Peabody, and Henry Stocton, complainants, and The Chicago, Burlington & Quincy Railroad Company, Geo. H. Hastings, attorney general; John C. Allen, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and A. R. Humphrey, commissioner of public lands and buildings, constituting the board of transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of the board of transportation of the State of Nebraska, respondents, decree was rendered against the said respondents, and said suit was revived in the name of Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, constituting said board of transportation of the State of Nebraska; William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of said board, and an allowance obtained of an appeal from the said court to reverse the said decree in the aforesaid suit, and a citation directed to the said appellees, citing and admonishing them to be and appear in the United States Supreme Court, at the city of Washington, D. C., thirty days from the day said citation bears date:

Now, the condition of the above obligation is such that if the said Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands and buildings, constituting the board of transportation of the State of Nebraska, and William A. Dilworth, J. M. Kountz, and J. W. Johnson, secretaries of the board of transportation of the
2372 State of Nebraska, shall prosecute said appeal to effect and answer all costs if they fail to make good their plea, then

the above obligation to be void; else to remain in full force and virtue.

ARTHUR S. CHURCHILL,
Attorney General,
JOEL A. PIPER,
Secretary of State,
EUGENE MOORE,
Auditor of Public Accounts
JOSEPH S. BARTLEY,
State Treasurer, and
HENRY C. RUSSELL,
Commissioner of Public Lands and Buildings,
Constituting the Board of Transportation of the
State of Nebraska,
WILLIAM A. DILWORTH,
J. M. KOUNTZ, AND
J. W. JOHNSON,
Secretaries of said Board,
By JNO. L. WEBSTER, *Their Solicitor.*
A. S. CHURCHILL.
JOS. S. BARTLEY.
H. C. RUSSELL.
J. A. PIPER.
EUGENE MOORE.

Upon the back of said bond appear endorsements in words and figures following, to wit:

No. 62, Q. U. S. circuit court, district of Nebraska. George H. Gardner *et al. vs.* The Chicago, Burlington & Quincy Rail-
2373 road Co. *et al.* Bond. Within bond approved by me as per order of court and filed Jul-6, 1895. Elmer D. Frank, clerk. A. S. Churchill, att'y general; Jno. L. Webster, solicitors.

Thereupon, afterwards, to wit, on the said sixth day of July, 1895, a stipulation was filed in said case; which said stipulation is in words and figures following, to wit:

In the Circuit Court of the United States for the District of Nebraska.

OLIVER AMES *et al.*
vs.
THE UNION PACIFIC RAILWAY COMPANY *et al.*

HENRY L. HIGGINSON *et al.*
vs.
THE CHICAGO, BURLINGTON & QUINCY RAILWAY COMPANY *et al.*

GEORGE SMITH *et al.*
vs.
THE CHICAGO & NORTH WESTERN RAILROAD COMPANY *et al.*

Stipulation.

2374 It is hereby stipulated that the clerk of the circuit court of the United States for the district of Nebraska, in making up the record in the above causes on the appeal of the State board of transportation to the Supreme Court of the United States, may transmit one copy of the evidence, which shall be used in the United States Supreme Court in each cause, the said testimony having been taken in the circuit court of the United States under stipulation of the parties that the same testimony should be and accordingly was used in each case, and said causes therefore having been heard and submitted to the court at one and the same time on said testimony.

J. M. WOOLWORTH,
Sol. for Pl'ffs.
JNO. L. WEBSTER,
Sol. for Appellants.

Upon the back of said stipulation appear endorsements in words and figures following, to wit:

No. 59, 60, 62, Q. U. S. circuit court, district of Nebraska. Oliver Ames *et al. vs.* Union Pacific R'y Co. *et al.;* George Smith *et al. vs.* C. & N. W. R'd Co. *et al.;* Henry L. Higginson *et al. vs.* C., B. & Q. R'd Co. *et al.* Stipulation. Filed Jul- 6, 1895. Elmer D. Frank, clerk.

2375 UNITED STATES OF AMERICA, } *ss:*
District of Nebraska, }

I, Elmer D. Frank, clerk of the circuit court of the United States for the district of Nebraska, do hereby certify that the foregoing folios from 1 to 322, inclusive, in vol. 1 of this transcript, and from 1 to 1364, inclusive, in vol. 2 of this transcript, and from 1 to 289, inclusive, in vol. 3 of this transcript, and from 1 to 304, inclusive, in vol. 4 of this transcript, and from 1 to 79, inclusive, in vol. 5 of this transcript, contain true and faithful transcripts of all the pleadings and proceedings of record and on file in said court in the cases

of Oliver Ames *et al. versus* The Union Pacific Railway Company *et al.*; George Smith *et al. vs.* The Chicago & North Western Railway Company *et al.*, and Henry L. Higginson *et al. versus* The Chicago, Burlington & Quincy Railroad Company *et al.*, and that copies of the citations issued therein, duly certified, have been lodged and remain in my said office as such clerk.

Witness my hand and the seal of said circuit court, at Omaha, in said district, this 26th day of July, A. D. 1895.

[Seal United States Circuit Court, District of Nebraska.]

ELMER D. FRANK, *Clerk.*

2376 Supreme Court of the United States, October Term, 1895.

ARTHUR S. CHURCHILL, Attorney General; JOEL A. Piper, Secretary of State; Eugene Moore, Auditor of Public Accounts; Joseph S. Bartley, State Treasurer, and Henry C. Russell, Commissioner of Public Lands and Buildings of the State of Nebraska, Constituting the Board of Transportation of the State of Nebraska, *et al.*, Appellants,
vs.
OLIVER AMES, OAKES AMES, FRANK M. AMES, *et al.* — No. 685.

ARTHUR S. CHURCHILL *et al.*, Constituting the Board of Transportation of the State of Nebraska, *et al.*, Appellants,
vs.
GEORGE SMITH, CHARLES P. GOODRICH, LAWRENCE MINOT, *et al.* — No. 686.

ARTHUR S. CHURCHILL *et al.*, Constituting the Board of Transportation of the State of Nebraska, *et al.*, Appellants,
vs.
HENRY L. HIGGINSON, ROBERT H. GARDNER, WILLIAM C. WELLS, *et al.* — No. 687.

Appeals from the circuit court of the United States for the district of Nebraska.

Filed August 3, 1895.

(15975, 15976, 15977.)

2377 It is hereby stipulated that appellants may supply the record with the opinion of the circuit court in the above-entitled causes, duly certified to by the clerk of the circuit court of the United States for the district of Nebraska.

J. M. WOOLWORTH,
For Appellees.

JNO. L. WEBSTER,
Sol. for Appellants.

In the Circuit Court of the United States, District of Nebraska.

THE NEBRASKA MAXIMUM RATE CASES.

Opinion of Mr. Justice Brewer.

In the Circuit Court of the United States, District of Nebraska.

OLIVER AMES *et al.*
v.
ON PACIFIC RAILWAY COMPANY, BOARD OF TRANSPORTATION, STATE OF NEBRASKA, *et al.*

GEORGE SMITH *et al.*
v.
CHICAGO & NORTH-WESTERN RAILROAD COMPANY, BOARD OF TRANSPORTATION, STATE OF NEBRASKA, *et al.*

HENRY L. HIGGINSON *et al.*
v.
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, BOARD OF TRANSPORTATION, STATE OF NEBRASKA, *et al.*

Before Brewer, circuit justice, and Dundy, district judge.

M. Woolworth, for plaintiff-.
eorge H. Hastings, attorney general of Nebraska, J. L. Webster W. A. Dilworth, for the board of transportation.

0 *Opinion.*

REWER, circuit justice, delivered the following opinion:

n each of these three cases, respectively, the plaintiffs are stockders in the corporation first named therein as party defendant. n the first, the defendants are The Union Pacific Railway Comy, a corporation created under the laws of Congress, and owning l operating a railroad partly within the limits of the State of braska; The St. Joseph & Grand Island Railroad Company, The aha & Republican Valley Railroad Company, and The Kansas y & Omaha Railroad Company, corporations organized under the s of the States of Kansas and Nebraska, whose stock is substanlly owned and whose lines are controlled and operated by the ion Pacific Railway Company; and certain officers of the State Nebraska, constituting its board of transportation, together with secretaries thereof.

In the second, the defendants are The Chicago & Northwestern ilroad Company, a corporation organized and existing under the s of the States of Illinois, Wisconsin, and Iowa; The Fremont,

Elkhorn & Missouri Valley Railroad Company, a corporation organized under the laws of the State of Nebraska; and The Chicago, St. Paul, Minneapolis & Omaha Railroad Company, a corporation organized under the laws of the States of Minnesota and Nebraska, both of which companies are owned and their roads operated by the Chicago & Northwestern Railroad Company; and, in addition, the board of transportation of the State of Nebraska and its secretaries.

In the third case, the defendants are The Chicago, Burlington & Quincy Railroad Company, a corporation organized and existing under the laws of the States of Illinois and Iowa, which owns, controls and operates in the name of the Burlington & Missouri River Railroad Company in Nebraska, certain lines within that State; and in addition the State board of transportation and its secretaries.

On April 12, 1893, the legislature of the State of Nebraska passed an act (Laws 1893, chap. 24, p. 164, Consolidated Statutes of
2381 Nebraska, p. 211) spoken of in the records in these cases, sometimes as "the Newberry bill," and sometimes as "house roll 33," which act prescribed the maximum rates for the transportation of freight by railroads within the State. The act in terms applies only to freight whose transit begins and ends within the State, and in no manner attempts to affect interstate freight.

The bills in these cases were filed to restrain the State officials from putting that act in force as against the railroads named. Pleadings were perfected, a large volume of testimony has been taken, and the cases are now before us upon pleadings and proof for determination.

At the threshold, the question arises whether this which purports to be an act of the legislature is a law; in other words, whether the various steps prescribed by the constitution as essential to the due passage of a bill through the two houses of the legislature, were all regularly taken. The act is found duly filed in the office of the secretary of state; is attested by the signatures of the speaker of the house and its chief clerk, also by the signatures of the president of the senate and its secretary; is indorsed "Approved April 12, A. D. 1893, Lorenzo Crounse, governor," and bears the following additional certificate, signed by the chief clerk of the house of representatives: "I hereby certify that the within originated in the house of representatives and passed the legislature, April 5th, A. D. 1893."

An act of Congress, thus authenticated, would be conclusively presumed to have been duly and legally enacted. This precise question was before the Supreme Court of the United States, and fully considered in Field *v.* Clark, 143 U. S. 649. Following that decision the courts of the United States will regard an act of any State legislature thus authenticated as having been enacted in full compliance with all the prescribed forms, unless there be some special provision in the constitution of that State, or some decision of its supreme court, which requires a looking beyond these evidences of authenticity, and a determination of the questien of due

enactment by reference to other kinds or matters of evidence. Or, to state the proposition in another form, the rule prescribed in that case will control, unless the State has prescribed some other or further rule.

2382 In the constitution of Nebraska, article III, secs. 8, 10, and 11, are these provisions, which are all that are referred to by counsel, or that seem to have any bearing on this question:

"SEC. 8. Each house shall keep a journal of its proceedings, and publish them (except such parts as may require secrecy), and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journal. All votes in either house shall be *viva voce*.

"SEC. 10. The enacting clause of a law shall be, 'Be it enacted by the legislature of the State of Nebraska,' and no law shall be enacted except by bill. No bill shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays shall be entered upon the journal.

"SEC. 11. Every bill and concurrent resolution shall be read at large on three different days in each house, and the bill and all amendments thereto shall be printed before the vote is taken upon its final passage. No bill shall contain more than one subject, and the same shall be clearly expressed in its title. And no law shall be amended unless the new act contains the section or sections so amended, and the section or sections so amended shall be repealed. The presiding officer of each house shall sign, in the presence of the house over which he presides, while the same is in session and capable of transacting business, all bills and concurrent resolutions passed by the legislature."

The utmost that can be inferred from these constitutional provisions is that in respect to certain matters evidence may be sought in the journals of the two houses, and evidence which will prevail over that which appears on the enrolled bill as found in the office of the secretary of state; and this is as far as any decision of the supreme court of Nebraska has gone.

In Hull *v.* Miller, 4 Neb. 503, that court held that the office of the journal is to record the proceedings of the house, and that it must appear on the face of the journal that a bill was passed by a constitutional majority, but held also that an omission therefrom of other matters which the constitution does not in terms require to be entered upon the journal, would not invalidate the law, and

2383 that it would be presumed in favor of its validity that the legislature had done that which it ought to have done.

In State *v.* Liedtke, 9 Neb. 463, it was claimed that an appropriation bill, as it passed both houses, named a larger sum than was found in the enrolled bill signed by the governor; and a mandamus was asked to compel the State auditor to draw his warrant on the treasurer for such excess; but the court denied the writ, and

declined to look into the journals of the two houses to see whether the fact was as claimed, on the ground that even if such sum was in the bill before the houses, it had never received the approval of the governor, and had, therefore, never been legally appropriated.

In State *v.* McClelland, 18 Neb. 236, the matter was considered at some length, and it was held that the certificate of the presiding officers as to the passage of a bill through their respective houses, is only *prima facie* evidence of that fact; that the journals may be examined, and, if they show that the bill did not pass, that evidence will be held conclusive, and the supposed law set aside. Similar is the case of State *v.* Robinson, 20 Neb. 96. The same proposition was again affirmed in State, *ex rel. v.* Moore, 37 Neb. 13, on the strength of the prior decisions, the court, however, saying that were the question a new one it would be inclined to follow the rule laid down by the Supreme Court of the United States in Field *v.* Clark, *supra.*

In the case at bar the journals of the two houses, fairly construed, affirmatively show that everything was done which the constitution requires shall be done, and recorded in the due passage of the bill. It will be sufficient to quote the recitals of the House Journal, those of the Senate Journal being equally explicit:

"JANUARY 14, 1893.

"*Introduction of Bills.*

"The following bills were read the first time, and ordered to a second reading:

"House roll No. 33. A bill for an act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska."

2384

"JANUARY 16, 1893.

"*Bills on Second Reading.*

"House roll No. 33. A bill for An act to regulate railroads, to classify freights, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska."

"MARCH 10, 1893.

"House roll 33. A bill for An act to regulate railroads, to classify rates, to fix reasonable maximum rates to be charged for the transportation of freights upon each of the railroads in the State of Nebraska.

"Was read the third time.

"This bill having been read at large on three different days, and the same, with all its amendments, having been printed,

"The question being,
"Shall the bill pass?
"Affirmative votes, 63.
"Negative votes, 30.
"A constitutional majority having voted in favor of the passage of the bill, the bill passed, and the title as amended was agreed to.
"Mr. Speaker—I move to amend the title by adding the following, and to provide penalties for violation of this act.—Rhodes.
"The motion prevailed."

"APRIL 6, 1893.

"Mr. Speaker announced that he was about to sign house roll No. 33 while the house was in session and capable of doing business."

As for the parol testimony which was offered tending to show some verbal alterations in the bill after it had passed the house of representatives, it is enough to say: first—that parol testimony is not admissible to impeach the validity of an act, which by the record is shown to have been duly and legally passed; and second, even if such testimony were competent, the supposed alterations were trifling, and not of a character to affect in any substantial manner the scope and reach of the bill. I am, therefore,
2385 clearly of the opinion that this act passed the legislature of the State, and received the approval of the governor in due conformity to all substantial constitutional requirements in respect thereto.

From this preliminary matter I turn now to the consideration of various questions elaborately discussed by counsel, in respect both to the scope and validity of this law, and the jurisdiction of this court. Many of them I shall notice but briefly; for, while I have given a careful examination to all, to attempt anything like an elaborate discussion of each would unnecessarily prolong this opinion.

It is insisted that the Union Pacific Railway Company cannot be subjected to the provisions of this statute, because it is a corporation created by Congress, and, as such, in the discharge of any of its functions, is subject only to the control of that body. The general question of the power of a State in respect to rates for local freight over a corporation organized under the laws of Congress was considered in Reagan *vs.* Mercantile Company, 154 U. S. 413; and it was there held that the mere fact that the corporation was so organized did not exempt it from State control in that respect. It was conceded in the opinion in that case, that Congress could wholly remove such a corporation from State control; but it was held that, in the absence of something in the statutes indicating an intention on the part of Congress to so remove it, the State had the power to prescribe the rates on all local business carried by it. Of course, that decision is controlling. It is true there is one provision in the Union Pacific act, which tends to show an intent on the part of

Congress, to retain to itself full control over all rates, and that is found in the 18th section of the act, 12 Stat., 497, as follows:

"And be it further enacted, That whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures including repairs, and the furnishing running and managing of said road, shall exceed ten per centum upon its cost, exclusive of the five per centum to be paid to the United States, Congress may reduce the rates of fare thereon, if unreasonable in amount, and may fix and establish the same by law."

There is in these words, it will be seen, a special reserva-
2386 tion of the power to fix rates; and when this is taken in connection with the general provision in the same section, reserving the right to "add to, alter, amend or appeal this act," there is much force in the contention that Congress intended to reserve to itself, as it had the power to do, the sole and absolute control of all the rates to be charged by the company. But I am not fully satisfied that this language warrants such a conclusion. Of course, if the Union Pacific Railway Company is not exempt from the operation of this act, no other company is.

Again, it is insisted that the act is obnoxious to the charge of denying to the railroads the equal protection of the laws, secured to them by the fourteenth amendment to the Constitution of the United States; and this because all the roads in the State are not subject to its provisions. Section 4 is relied on to sustain this charge:

"All railroads, or parts thereof, which have been built in this State since the first day of January, 1889, or may be built before the thirty-first day of December, 1899, shall be exempt from the provisions of this act until the thirty-first day of December, 1899."

The right to classify is conceded; but it is said that this classification is arbitrary, and depends upon no fair and reasonable difference. Attention is called to the fact that since January 1, 1889, the Rock Island Company has built a road from Omaha to Lincoln, which is a part of its main line from Chicago to Denver; that in all of its business the Rock Island is in active competition with the several companies whose roads are subject to the provisions of this act, and that it is an unreasonable and unjust discrimination to exempt the Rock Island Company from like subjection. I cannot concur in these views. The principle of classification adopted by the legislature, whether wise or unwise, is within its power. To divide railroads into two classes, placing in the one all that have been constructed and in operation for a length of time, and whose business must, therefore, be presumed to have been thoroughly established, and in the other all only recently constructed, is clearly not a mere arbitrary distinction; and this, notwithstanding it may be that one of the recently constructed roads is so fortunate
2387 as to have immediately secured a large business. The protection of infant industries is a term of frequent use in the

political discussions and history of this country; and to rule that a classification based upon such principle is purely arbitrary, and therefore unconstitutional, would certainly be a judicial novelty.

Again, it is insisted that this act interferes with interstate commerce in two ways: First, it establishes a classification of freights different from that which prevails west of Chicago; and, in the second place, by reducing local rates, it necessarily reduces the rates on interstate business. Neither of these objections seems to me to be well taken. In the first place, the classification of freights by the railroads is a purely voluntary act—not compelled by any statute, and not uniform throughout the country. There is one system which prevails east of Chicago, and one west. It might be more convenient if the classification established by this act harmonized with that adopted by the railroad companies doing business west of Chicago, but surely the voluntary act of the railroad companies in establishing a uniform classification for certain territory, can work no limitation on the power of the State to establish a different classification. To say, for instance, that because the railroad companies have voluntarily placed flour in a certain class, on which a specified rate is to be charged, such voluntary act of mere classification destroys the power of the State to establish a classification which puts flour in another class and subject to another rate, is, to my mind, a most extravagant pretension. Neither can I understand how the reduction of local rates, as a matter of law, interferes with interstate rates.

It is true the companies may, for their own convenience, to secure business, or for any other reason, rearrange their interstate rates, and make them conform to the local rates prescribed by the statutes; but surely there is no legal compulsion. The statute of the State does not work a change in interstate rates, any more than an act of Congress prescribing interstate rates would legally work a change in local rates. Railroad companies cannot plead their own convenience, or the effects of competition between themselves and other companies, in restraint of the otherwise undeniable power of the State.

It is further insisted by defendants that this court has
2388 no jurisdiction over these actions; first, because in the act itself, an adequate legal remedy is provided by petition to the supreme court of the State, and courts of equity may not interfere when adequate legal remedies are provided; secondly, because the rates are prescribed by a direct act of the legislature, and not fixed by any commission. I am unable to assent to either of these contentions. The remedy referred to is found in section five, which authorizes any railroad company, believing the rates prescribed to be unreasonable and unjust, to bring an action in the supreme court of the State, and if that court is satisfied that the rates are, as claimed, unjust and unreasonable to such company, it may make an order directing the board of transportation to permit the railroad to raise its rates to any sum in the discretion of the board, provided that

the rates so raised shall not be higher than were those charged b
such railroad on the first day of January, 1893.

But this comes very far short of being an adequate legal remed
Suppose, in such an action, the opinion of the supreme court is th
the rates are unjust and unreasonable, there is no judgment of th
court raising the rates, but only giving to the board of transport
tion a discretion. There is no final judgment relieving the compan
from the burden of the rates fixed by the act; it only opens the door
action by the board of transportation. Surely, a judgment or decr
giving permission to do justice, is not securing justice. It might
well be argued that giving to the executive power to pardon on
convicted of crime, is an adequate legal remedy for the correction
errors committed on the trial. An adequate legal remedy is on
which secures, absolutely and of right, to the injured party, reli
from the wrong done. But even if it were a full and complete leg
remedy it is one which can be secured only in a single court, an
that a court of the State. And, as was held in the case of Reaga
vs. Farmers' Loan and Trust Company, 154 U. S. 362, it is not withi
the power of the State to tie up citizens of other States, to the court
of that State for the redress of their rights, and for protection agains
wrong. The laws of Congress passed under authority of the Const
tution of the United States, open the doors of the Federal courts t
citizens of other States to suits and actions for the prevention or th
redress of wrong, and the State cannot close those door
2389 Whatever effect such legislation may have upon the courts o
the State, the courts of the United States are as open now a
they were before, to actions for the protection of citizens of othe
States in their property rights within the State of Nebraska. An
the fact that the rates are absolutely prescribed by direct act of th
legislature, instead of being created by a commission appointed b
the State, is immaterial; the commission is but one agency of th
State. The substantial question is whether the rates, as prescribed
work a wrong or injury to the property rights of the citizens of othe
States. I quote in support of these propositions these words from
the case last cited:

"A State cannot tie up a citizen of another State, having property
rights within its territory invaded by unauthorized acts of its own
officers, to suits for redress in its own courts. Given a case where
a suit can be maintained in the courts of the State to protect prop
erty rights, a citizen of another State may invoke the jurisdiction o
the Federal courts. Cowles *v.* Mercer County, 7 Wall., 118; Lincol
County *v.* Luning, 133 U. S. 529; Chicot County *v.* Sherwood, 14
U. S. 529. * * * The equal protection *the of* laws which, by the
fourteenth amendment, no State can deny to the individual, forbid
legislation, in whatever form it may be enacted, by which the prop
erty of one individual is, without compensation, wrested from him
for the benefit of another, or of the public. This, as has been often
observed, is a government of law and not a government of men
and it must never be forgotten that under such a government with

its constitutional limitations and guarantees, the forms of law and the machinery of government, with all their reach and power, must, in their actual workings, stop on the hither side of the unnecessary and uncompensated taking or destruction of any private property, legally acquired and legally held."

There can be no doubt of the jurisdiction of this court in actions like these, and its duty to protect the property rights of the plaintiffs against any wrongful invasion thereof by the State through legislation in any form.

But the grave question still remains, are the rates prescribed in this act, as the maximum over which the railroad companies may not go, unreasonable, and so unreasonable as to justify the courts in staying its operation? No more difficult problem can be
2390 presented than this. There are so many matters which enter into it, and which must be taken into consideration before a satisfactory answer can be reached. I think it may assist to a true understanding of the scope of this question and the various considerations which must enter into it, if we notice how, as a matter of history, the situation and the question have arisen. So far as the mere question of power is concerned, the transportation of persons and property is equally with the carrying of letters and papers a legitimate function of Government. By reason of this, private corporations, acting as common carriers, are given the right to exercise the governmental power of eminent domain; and thus, against the will of the owner, to take his property for their public or quasi-public uses. But in the history of this country the carrying of papers and letters was assumed by the Government, and the transportation of persons and property left to private persons. In other words, the people chose to manage the carrying of the correspondence of the country, and to leave the matter of transportation to individuals. With the wisdom of this the courts have no concern; I simply notice the fact. But in consequence of this, the carrying of letters and papers by strictly governmental agencies became what may be fairly called a system, while the transportation of persons and property by private individuals and corporations became a business. In the one, there was a simple classification and a uniform rate, and the system was extended wherever population went, and so far as possible to supply all the needs of all parts of the country in the way of transportation of news and letters. Whether, in the carrying out of this system, at the end of each year there was a profit, or not, was immaterial. It was something which the people of the whole country were doing for the joint and equal benefit of all, and if the expenses exceeded the revenues the common treasury paid the deficiency.

Gain, profit, revenue are in no sense the object of the post-office. There is no effort to increase the number of letters or papers, by special inducement, with a view of building up an increased business in one place or another, or in one direction or another. With uniform rates and equal facilities, all persons and places are served,

and the system is improved, and the facilities for carrying and d
tribution are multiplied and bettered as extensively and
2391 rapidly as Congress, in its judgment, deems for the best
terests of the whole people. No citizen in any town or c
can get special rates for the carrying of his correspondence.
one can be favored in the promptness with which his correspo
ence is carried, or the kind of service which is rendered. T
thought and purpose of the post-office is, equal service to all a
uniform rates.

On the other hand, as the Government did not undertake t
matter of transportation, it became a business carried on by in
viduals and corporations, and carried on as other business, with
view to private gain, and according to the judgment of those e
gaged therein. No effort was made by the Government, represen
ing the public, to stay private investment in this business. On t
contrary, the whole tenor of legislation was to encourage such i
vestment and thus to multiply the facilities and agencies of tran
portation, until now it is estimated that ten billions of dollars a
invested in railroad transportation alone. It is unnecessary to st
here to inquire whether this investment was not largely in exce
of the needs of the country and unwisely made. It is enough
know that it has been made, with the acquiescence, if not with th
active encouragement, of the public.

Now, in the carrying of any private enterprise, increase of bus
ness with increase of profits is the stimulating thought; and fo
this every variety of action is taken. Advertisement, solicitatio
inducement, favors, are all freely resorted to, but with the singl
purpose of larger business and greater gain. It is not strange tha
in the carrying on of transportation all the characteristics of othe
kinds of business are found. Indeed, that is often given as one o
the reasons for continuing the present methods in respect to trans
portation, and a matter in eulogy thereof. As evidence of this,
need do no more than quote this from the brief of counsel for th
plaintiffs:

"Take the case of the beet-sugar factory at Grand Island. Ne
braska sugar must be sold in the Chicago market, for instance, i
competition with Cuba, Louisiana and Sandwich Island sugar. I
a higher price be asked for Nebraska sugar than for sugar from
other regions, it will not find a buyer. But the production costs
about the same in Nebraska as in Cuba, Louisiana, and the Sand
wich islands. High railroad rates will shut it out of Chi-
2392 cago. Low rates must be given. Accordingly, the road is
compelled by the necessities of the situation, whether it will
or not, to give them; its own interests force it to do so. But that
is not all. When the enterprise is in its infancy, cost of production
is greater than elsewhere; accordingly, the road must make rates
so low as to cover this excess of the manufacturer's cost; sometimes
so low as to wipe out all the road's profit; sometimes below what
the transportation costs the road. Of course the road cannot al-

ways do this, nor can it do it on all its business. It justifies the irregularity in the exceptional case by the promise of paying business in the future. If helped at first, the new industry, by-and-by, will give the road a large business and make up all concessions. The present loss is borne in hope of future gains. This is the way all commercial enterprises are carried on. He is most successful who acts on this principle with the best judgment. It is a general law of business."

The beet-sugar factory referred to in the above quotation furnishes a clear illustration of the difference between the post-office system and the transportation business. When the proprietor thought of locating that factory the cost of correspondence was not considered in determining the question of location, while that of transportation was the principal factor. Not only that, it was an uncertain factor. There was no schedule, no tariff, by which he could at a glance determine what the rates of transportation would be from one place or another to the market which he must reach. It became, therefore, a matter of negotiation, of contract, with the transportation companies; and, as stated by counsel, the negotiations resulted in rates at first cheaper than the cost of transportation, with the expectation of rates enlarged in the future; or that the loss on that transportation would be made up by extra charges on other transportation. Now, it may be for the interest of Nebraska, that the beet-sugar industry be developed in that State, and that transportation elsewhere shall be temporarily burdened, in order to accomplish this development; or, it may be better for the country at large and thus for Nebraska as a part of that country, that the cost of transportation everywhere be as fixed and certain as the cost of correspondence. But whether the one system or the other be
2393 the better is not for judicial consideration, for it is a mere matter of policy, involving necessarily no question of the rights of person and property.

It is obvious that in the matter of transportation we are in an experimental or transitional stage. At first transportation was a mere private business, and managed as such; now there is a growing conviction that the best interests of the people will be subserved by changing it from a business to a system. I say experimental or transitional; for experience may satisfy that the change is not wise, and that it is better to continue transportation as a business, leaving to the interests of those engaged therein to determine how it shall be managed, and giving to them the power to build up, as counsel has suggested, industries and towns here and there. In such case the present would be only an experimental stage. Or, it may be that experience will only make more imperative the present demand that transportation shall be a system, with absolute certainty and uniformity of rates; in which case the change will be made, and this will be regarded as the transitional era. The transition may be accomplished by the Government taking possession of transportation and itself discharging that public duty. Certainly

that would be the simplest, and, for the courts, at least, the easiest solution of the problem which now impends. For, by purchase or condemnation, and in a single transaction, the State paying simply the actual value of the property invested in transportation, would have the same control over it that the National Government has over the post-office system, and could prescribe such rates as it saw fit, making good by general taxation any loss. But as ten billions of dollars are invested in the business of railroad transportation, the public may be reluctant to incur such indebtedness, and seek to accomplish the same result of uniformity of rates by means of legislation similar to that before us. In other words, leaving the property in the hands of the present owners, uniformity of rates is sought to be secured by compulsory legislation. Here comes in the embarrassment of present conditions. Property invested in railroads is as much protected from public appropriation as any other. If taken for public uses its value must be paid for. Constitutional guarantees to this extent are explicit, and in such condemnation proceedings no inquiry is permitted as to how the owners have acquired the property, provided only to be legally held by
2394 them. If a farm belongs to an individual and the public seeks to take it, it must pay its value, and is not permitted to diminish the price by proving that the owner acquired the means of purchase by immoral or disreputable practices. He may have made his fortune dealing in slaves, as a lobbyist, or in any other way obnoxious to public condemnation; but if he has acquired the legal title to the property, he is protected in its possession, and cannot be disturbed until the receipt of its actual cash value.

The same rule controls if railroad property is sought to be appropriated. No inquiry is open as to whether the owner has received gifts from State or individuals, or whether he has as owner managed the property well or ill, or so as to acquire a large fortune therefrom. It is enough that he own- the property, has the legal title, and so owning he must be paid the actual value of that property. If he has done any wrong in acquiring or using the property, that wrong must be redressed in a direct action therefor, and cannot be made a factor in condemnation proceedings. These propositions in respect to condemnation proceedings are so well settled that no one ever questions them.

The same general ideas must enter into and control legislation depriving the owner of adequate compensation. The power which the legislature has is only to prescribe reasonable rates—not any rates. The language of the constitution of Nebraska in respect to the matter is, (Constitution, 1875, art. 11, sec. 4), "And the legislature may, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State." But the foundation of the idea of reasonableness is justice. That which is unjust cannot be reasonable; and when the strong arm of the legislature is laid upon property invested in railroad transportation it must so be paid as to do justice to such investors. There can be no justice in that which

works to such investors a practical destruction of their property thus invested. It must always be borne in mind that property put into railroad transportation is put there permanently. It cannot be withdrawn at the pleasure of the investors. Railroads are not like stages or steamboats, which, if furnishing no profit at one place and under one prescribed rate of transportation, can be taken elsewhere
2395 and put to use at other places, and under other circumstances. The railroad must stay; and as a permanent investment its value to its owners may not be destroyed. The protection of property implies the protection of its value. The authorities on these general propositions are collected in the opinion in the recent case of Reagan *v.* Farmers' Loan and Trust Company, *supra*, and I need not do more than refer to that case.

What is the test by which the reasonableness of rates is determined? This is not yet fully settled. Indeed, it is doubtful whether any single rule can be laid down applicable to all cases. If it be said that the rates must be such as to secure to the owners a reasonable per cent. on the money invested, it will be remembered that many things have happened to make the investment far in excess of the actual value of the property—injudicious contracts, poor engineering, unusually high cost of material, rascality on the part of those engaged in the construction or management of the property. These, and many other things, as is well known, are factors which have largely entered into the investments with which many railroad properties stand charged. Now, if the public were seeking to take title to the railroad by condemnation, the present value of the property, and not of the cost, is that which it would have to pay. In like manner it may be argued that when the legislature assumes the right to reduce rates such reductions cannot be adjudged unreasonable if under them there is earned by the railroad company a fair interest on the actual value of the property. It is not easy to always determine the value of railroad property, and if there is no other testimony in respect thereto than the amount of stock and bonds outstanding, or the construction account, it may be fairly assumed that one or other of these represents it, and computation as to the compensatory quality of rates may be based upon such amounts. In the cases before us, however, there is abundant testimony that the cost of producing these roads is less than the amount of the stock and bond account, or the cost of construction; and that the present value of the property is not accurately represented by either the stocks and bonds or the original construction account. Nevertheless, the amount of money that has gone into the railroad property, the actual investment, as expressed, theoretically at least, by the amount of stocks and bonds, is not to be ignored, even though such sum is far in excess of the present value. It is said in the case of Reagan
2396 Farmers' Loan and Trust Company, (p. 412): "It is unnecessary to decide, and we do not wish to be understood as laying down an absolute rule, that in every case a failure to produce some profit to those who have invested their money in the building of a road is conclusive that the tariff is unjust and unreasonable.

And yet justice demands that every one should receive some compensation for the use of his money or property, if it be possible without prejudice to the rights of others." It is not always reasonable to cast the entire burden of the depreciations on those who have invested their money in railroads. Take the Union Pacific railway for illustration. At the time the Government created the corporation, to induce the building of this transcontinental road through a largely unoccupied territory, it loaned to the company $16,000 a mile, taking as security therefor a second lien on the property, and granting to the corporation the right to create a prior lien to an equal amount, which was done. There is testimony tending to show that the road in Nebraska could be built today for $20,000 a mile. Would it be full justice to the Government, would it satisfy the common sense of right and wrong, would it be reasonable, for the State of Nebraska to so reduce the rates that the earnings of the road would only pay ordinary interest on $20,000 a mile, and so, the holders of the first lien being paid their interest, the Government be forced to be content with only interest on one-fourth of its investment? Or, to put the case in a little stronger light, suppose the promoter of this enterprise had been some private citizen who had advanced his $16,000 a mile as a second lien, and that the road could be constructed today for only $16,000 a mile; would it be reasonable and just to so reduce rates as to simply pay to the holders of the first lien reasonable interest and leave him without recompense for his investment? Is there not an element of equity which puts the reduction of rates in a different attitude from the absolute taking of the property by virtue of eminent domain? In the latter case, while only the value is paid, yet that value is actually paid, and the owners may reinvest and take the chances of gain elsewhere; whereas, if the property is not taken, the owners have no other recourse than to receive the sum which the property which they must continue to own, will earn under the reduced rates. Considerations such as these compel me to say that I think there is no hard and fast test, which can be laid down to determine in
2397 all cases whether the rates prescribed by the legislature are just and reasonable, and that often many factors enter into the determination of the problem. Obviously, however, the effect of the reduction upon the earnings is the first and principal matter to be considered. This is a matter of computation.

The power of regulating railroads is often said to be a legislative power vested in the law-making body, to be exercised for the general welfare. Within the term "regulation" are embraced two ideas; one is the mere control of the operation of the roads, prescribing the rules for the management thereof; matters which affect the convenience of the public in their use. Regulation in this sense may be considered as purely public in its character, and in no manner trespassing upon the rights of the owners of railroads. But within the scope of the word "regulation" as commonly used, is embraced the idea of fixing the compensation which the owners of railroad property shall receive for the use thereof; and when

regulation in this sense is attempted it necessarily affects the property interests of the railroad owners; and it is "regulation" in this sense of the term that we are to consider in the present cases.

There are certain matters which embarrass these cases, and render all computations more than ordinarily difficult. One is this: the various companies are doing an interstate as well as a local business. If these roads were wholly within the State, and only local business done by them, the computation would be much simplified, and the effect of the reduction in rates upon the property more easily disclosed. But all of these roads are interstate roads, and a large portion of their business is interstate business. Some of it is local business in other States than Nebraska. Now it will not do to look simply at the gross earnings, and, because the reduction therein made by the enforcement of this statute still leaves enough reasonable compensation to the owners of the property, uphold the act; because, if the legislature of Nebraska can put in force this tariff for local business, the legislatures of other States through which these roads run, and the Congress of the United States, may make corresponding reductions in the rates on all other business, local and interstate, and the aggregate of such reductions might entirely destroy all earning capacity from the property.

2398 Another matter to be noticed is this: There is in this act no interference with the passenger tariff, but only a maximum for freight rates; so we cannot place all the local expenses over against all the local receipts and draw our conclusions therefrom.

We have an attempt by the legislature to prescribe a maximum tariff for only the transportation of freight within the limits of Nebraska, and are called upon to determine whether the rates so fixed are unreasonable, and afford no fair compensation to those who have invested their means in these railroad properties. In order to determine this, we must ascertain what it costs to carry this local freight,—what the receipts have been therefrom, and what reduction will be made in such receipts by the application of this act; and then we must take such proportion of the gross investment in the roads as the present earnings from local freights bear to the total earnings of the road. From these computations we may see whether the reduction made by this act in the local freights, if applied to all the company's business, would leave any compensation to the owners, and, if so, how much. Obviously the problem thus presented is one of exceeding difficulty. Fortunately, we have, in Mr. Dilworth, the secretary of the State board of transportation, one of the defendants' witnesses, a gentleman whose competency and credibility are unchallenged. In the computations which I have made I have relied mainly on his figures. From the labyrinth of tables, figures and estimates, presented in the testimony, and discussed by counsel in their briefs and arguments, let me take these two tables presented by Mr. Dilworth, which seem to lay the basis for some fair calculations as to the effect of this act upon the business of the various companies:

EXHIBIT 20.

Tons Carried, Tonnage per Mile, and Percentage of Expenses for Years Ending June 30, 1891, 1892, and 1893 (Nebraska).

	No. of tons carried locally.	No. tons of interstate freight carried.	No. of tons of local freight carried one mile.	No. of tons of interstate freight carried one mile.	Total number of tons local and interstate carried one mile.	No. of passengers, local and interstate, carried one mile.	Percentage of expenses to earnings.
1891.							
Burlington & Missouri R. R. R. in Neb.	538,824	1,448,229	73,075,310	196,415,962	269,491,272	69,594,747	66.24
Chicago, St. Paul, Minn. & Omaha	64,496	228,671	10,267,118	36,397,629	46,664,747	7,403,263	70.78
Fremont, Elkhorn & Missouri Valley	141,056	654,400	21,863,680	101,644,999	123,508,679	24,898,729	49.87
Union Pacific railway	152,028	1,908,845	28,908,124	362,966,694	391,874,818	66,072,597	68.94
Omaha & Republican Valley	61,448	409,270	4,579,104	30,499,041	35,078,145	10,295,137	120.26
St. Joseph & Grand Island	25,078	178,169	1,497,658	10,640,979	12,138,637	2,308,918	96.44
Kansas City & Omaha	8,743	78,694	403,751	3,634,082	4,037,833	912,210	99.54
1892.							
Burlington & Missouri R. R. R. in Neb.	574,653	1,996,437	91,139,965	316,552,193	407,692,158	70,038,243	64.23
Chicago, St. Paul, Minn. & Omaha	65,762	264,403	11,028,287	44,321,384	55,349,671	8,833,405	65.93
Fremont, Elkhorn & Missouri Valley	158,350	846,312	24,069,200	128,425,903	152,495,103	21,874,987	70.71
Union Pacific railway	192,865	1,882,112	42,970,322	419,300,773	462,271,095	56,926,269	56.44
Omaha & Republican Valley	63,999	628,351	4,659,127	45,745,647	50,404,774	10,058,442	93.12
St. Joseph & Grand Island	39,657	303,550	2,005,851	15,355,015	17,360,866	2,472,538	74.23
Kansas City & Omaha	10,823	194,089	481,515	8,635,016	9,116,531	864,030	75.19
1893.							
Burlington & Missouri R. R. R. in Neb.	583,294	2,221,005	93,793,675	357,131,753	450,925,428	83,091,418	65.51
Chicago, St. Paul, Minn. & Omaha	78,753	279,218	12,848,551	45,554,417	58,402,968	9,074,093	64.58
Fremont, Elkhorn & Missouri Valley	187,804	800,158	26,855,972	114,511,328	141,367,300	23,209,212	55.66
Union Pacific railway	220,061	2,068,568	45,948,736	431,949,561	477,898,297	63,422,117	58.51
Omaha & Republican Valley	68,237	683,868	4,257,988	42,706,297	46,964,285	11,028,131	94.14
St. Joseph & Grand Island	60,452	337,647	2,774,860	18,576,845	21,351,705	2,834,169	62.05
Kansas City & Omaha	15,484	205,725	658,534	8,750,126	9,408,660	875,415	76.50

DEFENDANTS' EXHIBIT 4.

Estimate of Local Business and the Effect of House Roll 33 on the Following-named Railroads.

	Number of tons hauled locally.	Average amount received for each ton hauled.	Total amount received for tons hauled locally.	Total amount of reduction caused by H. R. 33.	Amount received from passenger business.	Amount received for freight hauled in Nebraska, including through and local.	Total amount realized on all business done in the State.	Per cent. of reduction on all business done in the State by H. R. 33.
Burl. & Mis. R. R. R. in Neb.	574,653	$2.15416	$1,237,884	$365,175	$2,369,714	$5,538,766	$7,908,242	.044
Chicago, St. P., Min. & Omaha	65,762	1.87089	123,033	36,294	263,458	472,051	763,509	.047
Fremont, Elk. & Missouri Val.	158,350	2.12633	336,714	99,310	598,219	1,495,468	2,093,687	.047
Union Pacific railway	192,865	2.06498	398,262	117,487	977,264	4,284,793	5,262,057	.022
Omaha & Republican Valley	63,999	1.38026	88,335	26,043	305,668	955,626	1,261,294	.022
St. Joseph & Grand Island	39,657	.63051	31,004	8,836	71,083	216,395	287,478	.030
Kansas City & Omaha	10,823	.61261	6,630	1,889	41,123	125,530	166,653	.011

2401 Exhibit 4 shows the amount actually received for business within the State during the year ending June 30, 1892, by the various roads whose interests are in controversy in these cases; also the amount of reduction in those receipts which would have resulted if the rates prescribed by house roll 33 had been in force during that year. In Exhibit 20 is found the percentage of expenses to earnings upon the business of those companies. Obviously, the cost of transportation would be the same whether the companies received the prices which they did in fact receive, or the reduced rates prescribed by house roll 33. If the cost of hauling local freight was the same as that of the other business done by the roads, in order to ascertain what amount the companies earned from local freight, it would be necessary to multiply the gross receipts by the percentage of expenses to earnings. This would show the amount that it cost to carry that freight, and the difference between that cost and the receipts would be the amount of the net earnings. From such net earnings subtract the amount of reduction caused by house roll 33, and the result will show whether, under such rates, the companies would have earned anything from local freight, and, if so, how much.

Making this computation, and placing the result in a table, we have the following:

2402

	Gross receipts or total amount received for tons hauled locally.	Percentage of expenses to earnings.	Cost of hauling local freight.	Net earnings from local freight.	Total amount of reduction caused by H. R. 33.	Net earnings if rates prescribed by H. R. 33 had been in force.	Deficiency from same cause.
Burlington & Missouri R. R. in Neb	$1,237,884	64.23	$759,092	$442,792	$365,175	$77,617	$686
Chicago, St. Paul, Minn. & Omaha	123,033	65.96	81,152	41,881	36,294	5,587	
Fremont, Elkhorn & Missouri Valley	336,714	70.71	238,090	98,624	99,310	.....	
Union Pacific railway	398,262	56.44	224,779	173,483	117,487	55,596	
Omaha & Republican Valley	88,355	93.12	82,257	6,078	26,043		19,965
St. Joseph & Grand Island	31,004	74.23	23,014	7,990	8,836		846
Kansas City & Omaha	6,630	75.19	4,985	1,645	1,889		244

2403 From this table it will be seen that if during that year these companies had been limited in their charges to the rates prescribed by this house roll, four of them, to wit, the Fremont, Elkhorn & Missouri Valley, the Omaha & Republican Valley, the St. Joseph & Grand Island, the Kansas City & Omaha, would not only have received nothing by way of earnings, but would actually have been carrying the freight at a loss. The three other roads would have made respectively net earnings of $77,617, $5,587, and $55,996. This is upon the assumption that the cost of carrying local freight is the same as that of carrying through freight, and hence, that applying the general per cent. of expenses enables us to determine accurately the earnings from local freight. But the testimony shows that the cost of carrying local freight is largely in excess of the cost of other business. The exact per cent. of such excess is not disclosed. It may, perhaps, be difficult to determine it accurately. Mr. Fink, a witness for the plaintiffs, a gentleman of large experience in railroad transportation, and of national reputation as an authority in such matters, says that the cost of carrying local freight is four times that of carrying through freight.

Mr. Utt, another witness for the plaintiffs, who is the commissioner employed by the Commercial Club of Omaha to look after railroad transportation matters affecting the business of the city, testifies that the one costs six times as much as the other; while Mr. Dilworth, the secretary of the defendant board, and their principal witness on matters of this kind, also says that it costs more to do local than through business; that "the percentage of operating expenses on the local business would exceed the percentage on all the business" probably 10 per cent. and might run up to 20 per cent.—possibly might be higher than that. Of course, this testimony is not like that which we have heretofore been examining, where the figures and per cents are accurate and certain, but is largely in the way of estimate. And yet it is clear from the testimony that the per cent. of expenses for carrying local freight is considerably above the total per cent. of operating expenses. Now, in turning to the last table, it will be seen that if the cost of carrying local freight was 7 per cent. more than the general per cent. of expenses, the Burlington & Missouri River Company would under the reduction caused by house roll 33 have earned nothing 2404 from the transportation of local freight; if only 5 per cent., the Chicago, St. Paul, Minneapolis & Omaha road would likewise have earned nothing from that source, and similarly the Union Pacific railway, if the per cent. was $14\frac{1}{10}$ per cent. It is difficult to resist the conviction, that if the rates prescribed by house roll 33 had been in force during the year ending June 30, 1892, not a single one of these roads would have earned a dollar from the transportation of local freight. It is true that Exhibit 4 shows the effect of the reduction caused by house roll 33 only for the business of a single year, that ending June 30, 1892; but a comparison of the business in 1891 and 1893 with that for 1892, as

found in Exhibit 20, shows an average per cent. of expenses less in 1892 than in either of the other years. So that evidently the year 1892 was selected by the board of transportation for the making of its table, Exhibit 4, as the most favorable.

But light upon the legislation is further thrown by another table, prepared by defendant, as follows:

2405

DEFENDANTS' EXHIBIT 23.

Statement Showing Mileage, Capital Stock, and Funded Debt of the Following-named Railroads for the Year Ending June 30th, 1892.

	Entire mil-age.	Capital stock.	Funded debt.	Total.	Capital stock per mile.	Funded debt per mile.	Total per mile.
C. B. & Q.	5,290	$76,397,400	$116,580,980	$192,978,380	$14,439	$22,034	$36,473
C. St. P. M. & O.	1,356	34,050,126	23,742,800	57,792,926	25,103	17,504	42,608
F. E. & M. V.	1,300	30,370,000	21,119,000	51,489,000	23,352	16,238	39,590
U. P. R'y.	1,826	60,868,500	128,734,397	189,602,897	33,318	70,468	103,786
O. & R. V.	482	2,420,550	5,941,000	8,361,550	5,021	12,324	17,345
St. J. & G. I.	251	4,600,000	8,721,405	13,321,405	18,322	34,768	53,060
K. C. & O.	193	4,410,000	2,713,000	7,123,000	22,769	14,007	36,007

2406 Take the Union Pacific railway, whose net earnings for local freight seem greater than those of any other company, and by the last table it appears to be bonded for $70,468 per mile. The total mileage of that road within the State is 467 miles, so that if the bonded incumbrance were distributed according to mileage the burden resting upon the part of the road within the State of Nebraska would be $32,908,556. Six per cent. interest on this (the amount allowed by act of Congress incorporating the company, and which is the rate on the original mortgages at least) is $1,974,513. or the amount to be paid out of the earnings of the road before the stockholders are entitled to any dividends. From Exhibit 4 it appears that the receipts for all business done in the State was $5,262,057; for hauling local freight, $398,262 or about 7½ per cent. of the gross receipts. Local freight, therefore, should earn 7½ per cent. of the amount necessary to pay the interest on the bonded indebtedness resting on the lines in the State; 7½ per cent. on $1,974,513 is $148,088.

But the net earnings for local freight that year were $173,483, showing that there was only about $25,000 earned from local freight to be distributed among the stockholders; and this, upon the assumption, in the face of the testimony to the contrary, that the cost of carrying local freight is exactly determined by the general per cent. of expenses to earnings. By the same table, it appears that if the rates prescribed by house roll 33 had been in force, the earnings from local freight, upon like assumption, would have been $55,996, or but little more than one-third of the amount necessary to pay the portion of the interest on the bonds properly chargeable to local freight.

If it be said that it is not a fair apportionment of the bonded indebtedness to distribute it by the mileage, because the cost of construction in the mountainous part of the road west of Nebraska was much greater than such cost within the limits of the State, and if it be said that the cost of material and labor at the time of the construction was far in excess of the present cost, and that there was extravagance, if not corruption, in carrying on the work of construction, (all of which is undoubtedly true,) it is also true that the act of Congress, under which the company was chartered and the road constructed, provided for the issue by the Government

2407 to the company, of bonds to the amount of $16,000 a mile within the limits of the State of Nebraska, to be a second lien, and with power in the company to execute a prior mortgage for a like amount. Congress, therefore, in the inception of the work, made specific provision for an indebtedness for $32,000.00 per mile on the road within the limits of the State. In order to meet its share of the interest on such indebtedness, the local freight should have earned $67,248, or about $12,000 more than would have been earned under house roll 33.

Again, there is a volume of testimony as to what it would cost to reproduce these various roads, such amount being, as claimed, a fair

test of the present value. I shall not, now at least, attempt to make any comparison of this testimony, but for present purposes content myself with taking this concession from the brief of the defendants' counsel:

"There is sufficient testimony in this record to justify the conclusion that the average cost of reproduction, or value of the roads in the State of Nebraska, does not exceed $20,000 per mile, including the right of way, railway tracks, equipment, station-houses, telegraph lines, and terminal properties."

The present value of the Union Pacific railway property in the State at the sum named in this concession, would be $9,340,000. To pay 6 per cent. on this conceded value would require, as its contribution to the earnings from the local freight, $42,030; or in other words, upon the conceded value, the local freight earnings, as reduced by house roll 33, would have paid but their proportionate share of 8 per cent. interest. If a proportionate reduction in rates was made by other States and by Congress, (and of course such a reduction would be equally within their power,) so that the total net earnings of the road would be but 8 per cent. on this conceded value, obviously only the holders of the first lien would receive full interest on their indebtedness, while the holders of subordinate liens would receive but a fraction thereof; all the stockholders would go without compensation, and soon their investments be swept away by foreclosure proceedings.

Take the same process of computation, and apply it to the only other company which would have any amount of earnings under the reduction caused by house roll 33, to wit, the Burlington & Missouri River Railroad in Nebraska. Beyond the statement in

Exhibit 23 of the capital stock and funded debt per
2408 mile of the Chicago, Burlington & Quincy Company, (which owns and operates the B. & M. River railroad) we have from the testimony of its auditor the exact amount of mortgage indebtedness resting upon the road within the limits of the State, and the amount of interest charges due therefrom: to wit, an indebtedness of $45,268,992.80, and interest charges for the year 1892, $2,224,171.17. The amount received for local freight was about 16 per cent. of the total amount realized on all business done in the State, as appears from Exhibit 4. Sixteen per cent., therefore, of this interest should have been earned by the local freight. Sixteen per cent. is $355.867; but the table shows that the net earnings therefrom under the rates prescribed by house roll 33 for that year, would have been only $77,617; not a fourth of the amount which it should contribute to the payment of such interest.

But again, as Mr. Dilworth testified, the average reduction on local rates caused by house roll 33 is 29½ per cent. The tariff which was in force at the time of the passage of this act, had been, for some three or more years, fixed by the voluntary action of the railroad companies, and the reduction of 29½ per cent. was from their rates. It must be remembered that these roads are competing

roads; that competition tends to a reduction of rates—sometimes, as the history of the country has shown, below that which affords any remuneration to those who own the property. Can it be possible that any business so carried on can suffer a reduction of 29½ per cent. in its receipts without ruin? What would any business man, engaged in any business of a private character, think of a compulsory reduction of his receipts to the amount of 29½ per cent.? The effect of this testimony is not destroyed by the table offered of the percentage of reduction, on the total amount of business done by these companies in the State as follows:

B. & M. R.	4.2 per cent.
C. St. P. M. & O.	4.5 per cent.
F. E. & M. B.	4.1 per cent.
Union Pacific	2.0 per cent.
O. & R. V.	1.9 per cent.
St. J. & G. I.	2.7 per cent.
K. C. & O.	1.5 per cent.

For such a table only indicates, as is further shown by Defendants' Exhibit 4, how small a proportion of the total amount
2409 of business done in the State comes from purely local freight. Nor is it weakened by any comparison between the amount of reduction and the total receipts from all business. It may be, as stated by counsel, that the annual earnings of the Chicago, Burlington & Quincy Company are $27,916,128, and that the total amount of reduction caused by this house roll 33 is only $365,175. It may be that the capital stock of the company is $76,407,500, and that $365,175 distributed among the stockholders may not be for any of them a great sum; but the entire earnings of the C. B. & Q. are more than twenty times the receipts from local freight in Nebraska; and to reduce such earnings by twenty times $365,175 would make a startling difference in their amount. The fact that the State of Nebraska can reach only one-twentieth of the total earnings, gives it no greater right to make a reduction in respect to that one-twentieth, than it would have, had it the power over the total earnings, and attempted in them a like per cent. of reduction. If it would be unreasonable to reduce the total earnings of these roads 29½ per cent., it is *prima facie*, at least, equally unreasonable to so reduce any single fractional part of such earnings.

It is, however, urged by the defendants that, in the general tariffs of these companies, there is an inequality; that the rates in Nebraska are higher than those in adjoining States, and that the reduction by house roll 33 simply establishes an equality between Nebraska and the other States through which the roads run.

The question is asked, Are not the people of Nebraska entitled to as cheap rates as the people of Iowa? Of course, relatively they are. That is, the roads may not discriminate against the people of any one State, but they are not necessarily bound to give absolutely

the same rates to the people of all the States; for the kind and amount of business and the cost thereof are factors which determine largely the question of rates, and these vary in the several States. The volume of business in one State may be greater per mile, while the cost of construction and of maintenance is less; hence, to enforce the same rates in both States might result in great injustice in one, while it would only be reasonable and fair in another. Comparisons, therefore, between the rates of two States are of little value, unless all the elements that enter into the
2410 problem are presented. It may be true, as testified by some of the witnesses, that the existing local rates in Nebraska are 40 per cent. higher than similar rates in the State of Iowa. But it is also true that the mileage earnings in Iowa are greater than in Nebraska. In Iowa there are 230 people to each mile of railroad, while in Nebraska there are but 190; and, as a general rule, the more people there are the more business there is. Hence, a mere difference between the rates in two States is of comparatively little significance.

Another matter must be noticed. As heretofore stated, the year 1892, upon which the estimates given by Mr. Dilworth are made, seems to have been the most favorable of the three years in respect to which figures are given. In addition to the inference drawn from these tables, the testimony of witnesses shows that that year was one of the most prosperous years for railroad business in quite a length of time. Now, it is one of the difficulties of this case, that no provision is made for the varying conditions of business in different years and parts of years. Maximum rates are prescribed, above which the roads may not go, no matter what unforeseen events may affect the amount of business which they may do. Indeed, since the argument of these cases, the railroad business in the West suffered a most serious prostration, growing out of the fearful strikes in the month of July. A statutory and fixed tariff like the one before us, has no provision for such contingencies as that. The loss is cast absolutely and wholly upon those who have invested their money in railroad business. In short, it deprives these property-owners of all chances to make profit, which result from private control of business, and compels them to pay out of their pockets all the losses which result from the enforcement of an absolute system.

I might prolong this opinion, and notice many other matters which have been referred to by counsel. I have done a great deal of work in computations—work which is properly the duty of a special master, but which I have done in order to satisfy myself as to the effect of this reduction of rates on the business of these railroads. I have not attempted to introduce all of these computations into this opinion; it is long enough as it is. The computations and tables which I have set forth indicate the lines of inquiry which have seemed to me most satisfactory. The conclusion to which I
2411 have come is, that, having regard to the present condition of affairs in the State, the present volume of business done over

these roads, and any probabilities of an early change in that volume, a reduction of 29½ per cent. in the rates for local freight is unjust and unreasonable to those who have invested their money in these railroad properties. I appreciate fully the embarrassment and difficulties attending an investigation of this kind. I am reluctant, as every judge should be, to interfere with the deliberate judgment of the legislature. I have taken much time to study this case in all its relations, and have come, though reluctantly, to the conclusion I have stated, and am, therefore, constrained to order decrees in behalf of the plaintiff, staying the enforcement of this tariff upon the companies named in the bills. It may be said that, even if furnishing no reasonable remuneration today, the result might be different under an increase of business. That, of course, is possible; and it may be that, as the volume of business increases, the time will come when the rates fixed by this house roll 33 will be reasonable and just. So, there should be entered, as a proviso to the decrees that leave is reserved to the defendants at any time that they are so advised, to move the court for a reinvestigation of the question of the reasonableness of these rates.

UNITED STATES OF AMERICA, }
District of Nebraska, } *ss*:

I, Elmer D. Frank, clerk of the circuit court of the United States for the district of Nebraska, certify that I have compared the annexed copy of opinion in the cases named in the title thereto with the original on file in this office, and that the same is a correct transcript thereof and of the whole of said original.

In testimony whereof I have caused the seal of said court to be hereunto affixed, at the city of Omaha, in said district, this 30th day of November, 1895.

[Seal United States Circuit Court, District of Nebraska.]

ELMER D. FRANK, *Clerk.*

2412 [Endorsed:] Case Nos. 15,975, '6, '7. Supreme Court U. S., October term, 1895. Term Nos., 685, 686, 687. Arthur S. Churchill *et al.*, &c., app'ts, *vs.* Oliver Ames *et al.*, George Smith *et al.*, Henry L. Higginson *et al.* Stipulation and addition to record. Filed December 14, 1895.

Endorsed on cover: Case No. 15,975. Nebraska C. C. U. S. Term No., 685. Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, and Henry C. Russell, commissioner of public lands & buildings of the State of Nebraska, constituting the board of transportation of the State of Nebraska,

et al., appellants, *vs.* Oliver Ames, Oakes Ames, Frank M. Ames, *et al.* Case No. 15,976. Term No., 686. Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, & Henry C. Russell, commissioner of public lands & buildings of the State of Nebraska, constituting the board of transportation of the State of Nebraska, *et al.*, appellants, *vs.* George Smith, Charles P. Goodrich, Lawrence Minot, *et al.* Case No. 15,977. Term No., 687. Arthur S. Churchill, attorney general; Joel A. Piper, secretary of state; Eugene Moore, auditor of public accounts; Joseph S. Bartley, State treasurer, & Henry C. Russell, commissioner of public lands & buildings of the State of Nebraska, constituting the board of transportation of the State of Nebraska, *et al.*, appellants, *vs.* Henry L. Higginson, Robert H. Gardner, William C. Wells, *et al.* Filed August 3, 1895.